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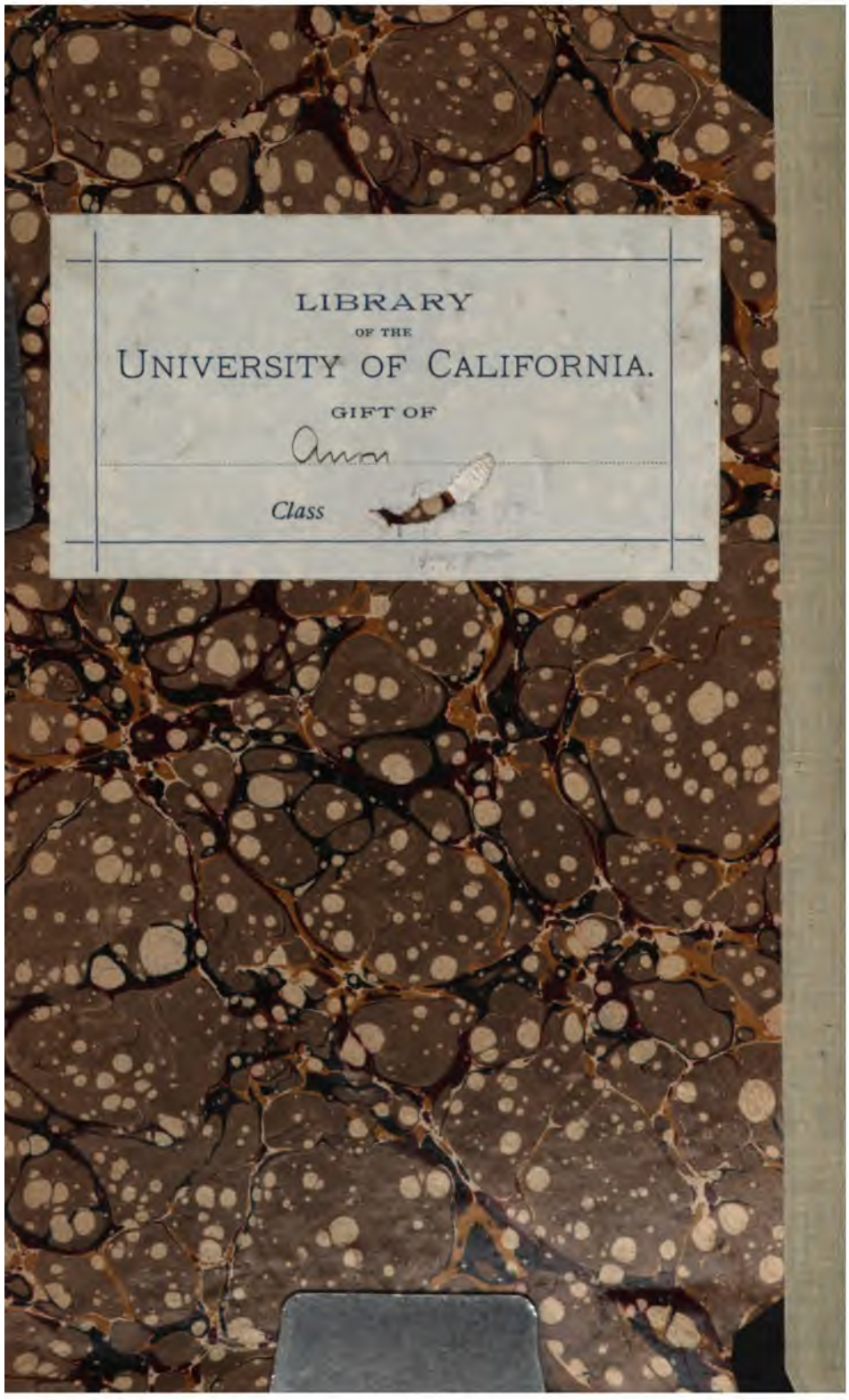
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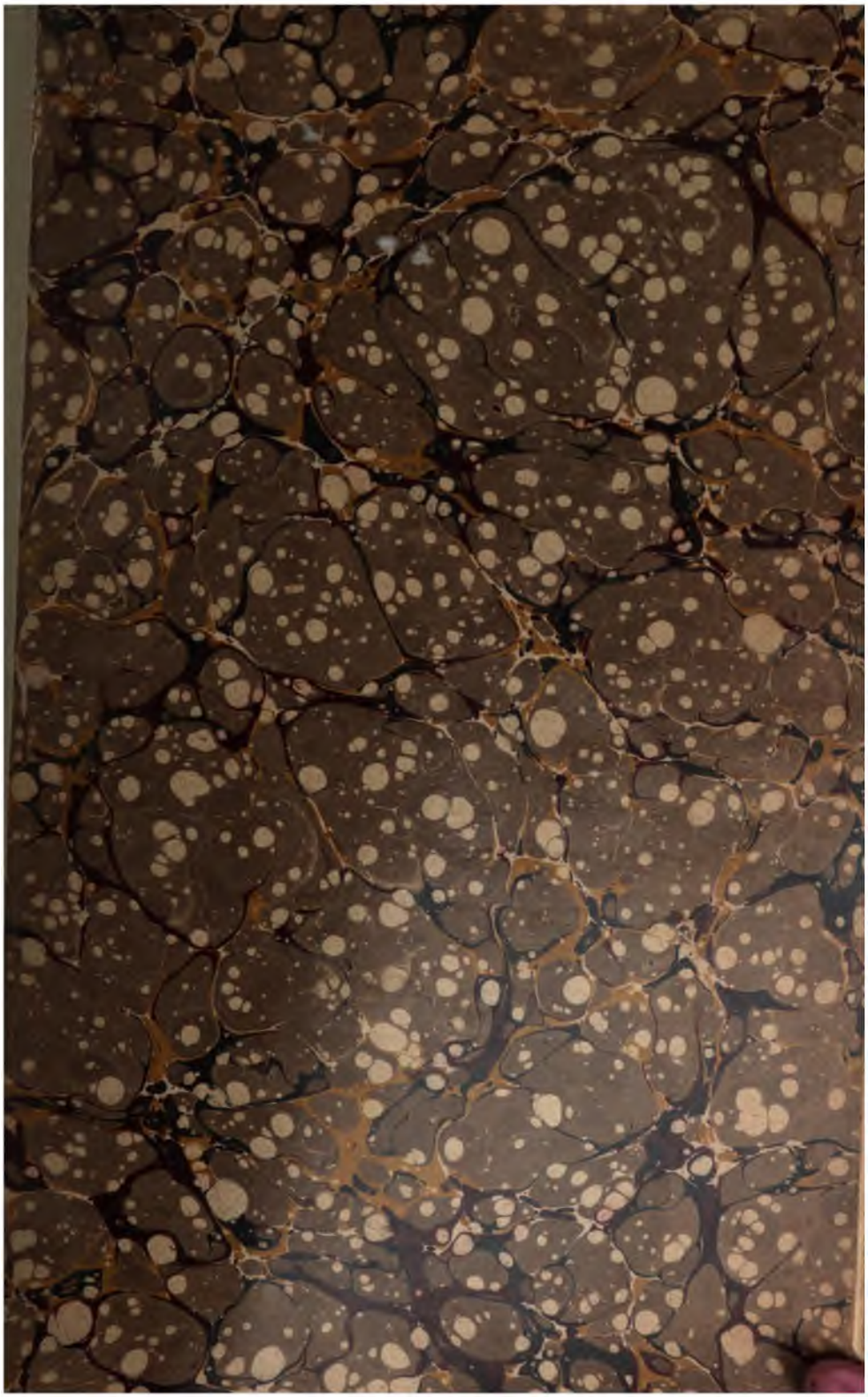

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1900

Addresses Made at the Meeting
Held in Memory of

WILLIAM PEPPER, M.D., LL.D.,

IN THE CHAPEL OF THE

University of Pennsylvania,

NOVEMBER 29, 1898,

TOGETHER WITH

Mexico's Tribute to the Memory of
William Pepper.

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OF THE
UNIVERSITY
OF
CALIFORNIA

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ADDRESSES

MADE AT THE

MEETING HELD IN MEMORY

OF

WILLIAM PEPPER, M.D., LL.D.,

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University of Pennsylvania,

NOVEMBER 29, 1898.

REPRINTED FROM
American Philosophical Society Memorial Volume.
1899.

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WILLIAM PEPPER, M.D., LL.D.,

BORN, AUGUST 21, 1843.
DIED, JULY 29, 1898.

At a meeting of the Board of Trustees of the University of Pennsylvania, held October 4, 1898, Mr. Samuel Dickson offered the following resolution:

"*Resolved*, That a committee of five be appointed to make provision for a memorial meeting in reference to the death of Dr. William Pepper, with authority to invite the coöperation of other institutions and societies, with which he was connected."

The Provost appointed as this committee Mr. Samuel Dickson, Dr. S. Weir Mitchell, Dr. Horace Howard Furness, Mr. Joseph S. Harris, and Mr. Joseph G. Rosengarten.

Similar committees were appointed as follows:

From the American Philosophical Society: Dr. Persifor Frazer, Hon. George F. Edmunds, Dr. J. M. Da Costa, Gen. I. J. Wistar, and Dr. James Tyson.

From the Franklin Institute: Dr. Coleman Sellers, Dr. Isaac Norris, and Mr. George Vaux, Jr.

From the Academy of National Sciences: Rev. Dr. Henry McCook, Dr. Henry C. Chapman, and Mr. Joseph Willcox.

A joint meeting of the committees was called at the University Club, to which were also invited Hon. Charles F. Warwick, Dr. William P. Wilson, Mr. Daniel Baugh, Mr. Hampton L. Carson, Hon. Frederick Fraley, and Mr. John Thomson; Mr. Dickson presiding.

It was decided to hold the services in the Chapel of the University of Pennsylvania, on the evening of November 29, 1898, and to invite His Excellency Governor Hastings to preside as ex-officio President of the Board of Trustees of the University. The other speakers selected were Dr. Mitchell on behalf of the Board of

Trustees of the University; Dr. Tyson on behalf of the Medical Faculty; General I. J. Wistar on behalf of the Wistar Institute; Mr. Daniel Baugh on behalf of the Archeological and Paleontological Museum; Mr. Carson on behalf of the General Alumni Society; Dr. Wilson on behalf of the Philadelphia Commercial Museums; Mr. Thomson on behalf of the Free Library; and Mayor Warwick on behalf of the City of Philadelphia.

Mr. Fraley, on account of his advanced age (ninety-four years), excused himself from personally attending, but prepared a discourse which was read by Mr. Dickson.

The night of the meeting was very inclement, yet in spite of this fact a large audience of representative men and women listened to the addresses with earnest attention.

It was very generally remarked that the best eulogium on this ablest and most public-spirited of Philadelphians was found, not in any one address, but in the fact that, without previous knowledge by any speaker of what the others would say, the addresses together formed a mosaic in which not only Dr. Pepper's immense activity was clearly traced, but his individuality was unmistakable. No other man could have accomplished so much in each of these many fields of labor and thought, although the nine addresses did not exhaust all the directions of his effort in behalf of, and his usefulness to, mankind.

The writer, his schoolmate and college classmate, can add no ornament to the chaplet of these addresses, but he can attest the solemnity and dignity of the sorrowful occasion of their presentation, and the sincere interest with which they were received.

PERSIFOR FRAZER.

ADDRESS BY THE CHAIRMAN, HIS EXCELLENCY, GOVERNOR DANIEL H. HASTINGS.

"I do not think it is too much to say that the people of Philadelphia, of the Commonwealth, of the whole country and of other countries who were honored by his acquaintance or benefited by his achievements would, if it were possible, gladly gather here to-day to unite with those who shared more directly in those labors which made his name familiar in every land and added increasing fame to this University to give to history and to the judgment of mankind suitable acknowledgment and permanent record of their estimate and appreciation of the life work of William Pepper.

"The profession to which he gave the best energies of his rare genius has everywhere mourned his loss with the same intense fervor that it welcomed and admired his unabating and conquering efforts for the advancement of medical science. The congress of university and college life welcomed him to the headship of the University of Pennsylvania, whose history, growth and development is a part of the educational life of the State and noted his systematic, incessant and brilliant efforts which have so largely added to its usefulness and distinction.

"Others will tell you in eloquent and tender phrase the story of his student life and official work within these walls; of his honored father's relations to one of its departments; of his private professional career and of his varied consulting practice throughout the land and in other countries; of his incessant literary work which brought him fame and honor at home and abroad; of his active coöperation with those broad-minded men who founded another admirable institution, the Pennsylvania Museum and School of Industrial Arts; of his work in building up the Free Library of Philadelphia; and of his potential relations to the conception, organization and development of the Philadelphia Commercial Museums—an institution destined, as I believe, to become national in its usefulness and of such commercial value to the American people as eventually to become an important

department of the executive branch of the Federal Government.

"As one whom the accident of public station brought into official relation with this institution, may I not be permitted in this presence to call attention to the generally admitted fact that no University in the land has shown more of the true educational spirit of the age, in its enlarging purposes, its constantly increasing facilities and its almost unparalleled success and usefulness, than the University which for so many years responded, in its unfolding splendor, to his guiding hand.

"The Province of Pennsylvania found a Franklin whose prescience drew aside the veil which obscured the necessity for a nineteenth-century University within its borders, and who moulded the plans and laid the foundations; while the Commonwealth of Pennsylvania more than a century later found the strong, capable, enthusiastic organizer to compass the full fruition of all that of which Franklin could have dreamed.

"When we recall his youthful face, the depths of his kindly eye, the sympathy in his voice and the pervading modesty of his bearing, we are wont to wonder how well they concealed those powers which, in a life so soon ended, made him one of the foremost men of his time.

"An epitaph in St. Paul's Cathedral says if you would know the genius of Christopher Wren, 'look around.' Pepper's name was trembling on every lip when the newspapers said in lines of mourning, 'we have lost our foremost citizen.' Look around. Every alumnus of this University feels a personal bereavement. Every member of his profession knows that a star has dropped from the firmament wherein it shone so brightly. Every student has lost a teacher; every good citizen a champion; every sick-room a gleam of sunshine; every good cause an advocate; every patriot an ally, because his life was the incarnation of all these.

"The headstones in our cemeteries are often filled with excuses made by the living for the dead. There is none

required to make excuse for him we mourn. No mantle of apology is here required. History may not gather to her bosom the ' arrows of malice,' there are none. But history may say to Philadelphia and to Pennsylvania, ' Behold the title deeds of your gratitude.'

" Perhaps the tendency of the age is lacking in appreciation of such work as he accomplished. It seems that official station is demanded by the public thought as a prerequisite to distinction. The man who parades in political life, who carries a district or gains some advantage over an adversary, may be heralded as a genius or a statesman, while the modest scholar and model citizen may toil and earn and give his life work and accomplish for humanity and country all that can be demanded of his genius and patriotism and leave behind him foundations upon which untold blessings may be builded —and himself sink into an unforgotten grave.

" Let not this be the unrecognized corollary to the accomplished problems in the life of William Pepper. Let those who live after him see the direction from whence he came, the fields he traversed; the burdens he bore; the star upon which his eye rested; the purposes that filled his breast; the quality of humanity which animated his unwearied and unceasing labors; and the methods which worked out the triumphs of a life which we are wont to believe ended all too soon."

The Governor introduced each speaker with the simple announcement of his name and the organization for which he responded.

ADDRESS ON BEHALF OF THE BOARD OF TRUSTEES OF THE UNIVERSITY OF PENNSYLVANIA, BY S. WEIR MITCHELL, M.D.

Dr. S. Weir Mitchell, representing the University Trustees, was the first speaker, and said:

" I have seen in the course of my life some of the tributes laid by this city on the graves of those who smile no more

at the applause of men. I can recall no such occasion when it became needful to bring together so many representative voices to express adequately our sense of large service.

" This very fact limits each of us, who has here to speak, and releases me as one from the too large task of recounting the multiplicity of services rendered by a very notable man to the city of his birth.

" I shall leave others to discuss the characteristics of this strong and ardent nature which smiled at obstacles and seemed to delight in contest with difficulties.

" Nor shall I make it my task to speak of the large charities of Dr. Pepper; nor of the liberal gifts from head and heart to all manner of scientific enterprises. I shall prefer, as representing the University of Pennsylvania and its Trustees, to ask a few minutes that I may simply relate what we owe to Dr. Pepper's broad-minded view of our needs as a great school. Even as to this I must be brief, for elsewhere in our official history what I might say is set out at length and I wish rather to express gratitude than to recount well-known services.

" The thought takes me back to a difficult hour in our University history. Phillips Brooks had reluctantly declined to become provost. Because of his great affection for this city (as I personally knew), he hesitated long. One or more among us had also thought well to refuse this office. After much consultation, William Pepper was nominated. He at first refused, and then gave later a promise to serve two years. This was in 1881. I think he found rule, authority, the field for a large constructive imagination, all to his taste. He stayed at his post until 1894. I shall confine myself strictly to this period of a notable life, and resist the temptation to go back of his time, or outside of William Pepper's work as provost.

" His predecessor in office, Provost Stillé, had prepared and opened the path of progress by taking us out of a city byway to this more ample space. His large-minded and intelligent scholarship, since then invaluably illustrated in

our historical literature, had made itself strongly felt in this University. Provost Stillé left with us a fresh spirit of enterprise. He saw that all universities, not in cities, soon created cities around them. Seventy to one hundred thousand people lie around Harvard, Oxford, or Cambridge. We are here placed much as they are. The securing of these open spaces prefigured largeness of outlook, liberalness as to wise change.

" Never was nobler chance well used. The place, the time and the opportunity had found the man. Before this time the University was made up of schools which lacked relating bonds. The new provost gave to the University a certain oneness of life, which has found its ultimate attainment in the materialization of his bold scheme of dormitories, never before carried out as part of the corporal system of a city university. The Academic Council, the Department of Philosophy and the better organization of the alumni have strengthened this unifying bond.

" There were created under Provost Pepper's rule the Veterinary School, the Department of Biology, that of Hygiene, built by Henry Charles Lea ; the Veterinary Hospital, the Women's Graduate School and the library. The central light and heat building was his thought, and the Wistar Institute, the splendid gift of Isaac Wistar, belongs to this time of munificent giving, stimulated by the example of a personal generosity on the part of the provost such as has been rarely equaled in a man of moderate fortune.

" To his restless enterprise and fostering activity we owe also the splendid museum buildings, and the wonderful collection of Assyrian records which have so singularly illustrated the progress of Oriental scholarship, and lighted up the dim horizon of historic time.

" He taught this great city how to value this school of learning.

" If at last we, who are so slowly proud of our past and so tardily assured of present distinction, have learned what a great University is to the State and city, we owe much of

this belated virtue to William Pepper. If we have at last seen this University relating itself to the free-school system and welcoming its teachers to ever-enlarging and liberal opportunities, this, too, was in part Provost Pepper's work.

" That his lavish giving and his personal influence inspired Legislatures and City Councils with like desire to help us is not a cause for wonder. It was hard to resist a man so buoyant, so sanguine, so sure to give with the one hand when he asked with the other.

" As Provost Stillé left to him the temptation of ready opportunities, so has Dr. Pepper's thought and work left to Provost Harrison chances which have been energetically used.

" Under these three reigns this University has become one of the four great American schools of learning. In some ways it has no rival. I have not time to do more than note the vast changes in legal, dental and, above all, medical education which came about under Dr. Pepper's rule. The lengthening of all these courses met with opposition such as might have been expected, and in these contests (especially in medicine) before and in his provostship, William Pepper displayed a confident courage in the future which I have good cause to thank and remember.

" As a presiding officer in the Board of Trustees, Dr. Pepper was decisive, rapid and always the equable master of his temper.

" Others will in time have told you of his work as a teacher and physician ; others again must speak of what this city elsewhere owes a man who craved work and enjoyed varied labor as did no other I have ever known. That he died worn out in life's prime is no wonder.

" In the name of this University, for his associates in the Board of Trustees, for the alumni of this home of learning, I thank his memory—grateful with them for what he did, for what he gave, for what he showed his successors how to do."

ADDRESS ON BEHALF OF THE MEDICAL FACULTY OF THE UNIVERSITY OF PENNSYLVANIA, AND OF THE COLLEGE OF PHYSICIANS, BY JAMES TYSON, M.D.

"In the early part of July, 1863, immediately after the battle of Gettysburg, I was in charge of a small military hospital in Harrisburg, Pa., when notified of my appointment as resident physician in the Pennsylvania Hospital. Arriving at the Hospital a few days later, I found among the staff of officers Mr. William Pepper, Jr. Mr. Pepper was then a student of medicine substituting Dr. John Conrad, the Hospital apothecary, who was absent on his vacation. It fell to my lot to be Dr. Pepper's room-mate during his temporary residence at the Hospital, and thus began our friendly relations. On Friday, the 1st of July, 1898, I had just left my house, and was walking west on Spruce street, when Dr. Pepper drove up to the sidewalk, jumped lightly from his carriage and joined me. He announced that he would start for California on the 7th of July, and continued walking with me up Spruce street, chatting gaily and laying plans for the next summer, until Eighteenth street was reached, when he left me with a cheerful, hearty good-by. I never saw him again.

"Between these two dates lay just thirty-five years of uninterrupted friendship and exceptionally close intercourse. Brightness, alertness, enthusiasm were the qualities which I recall of him at our first meeting. Cheerfulness, hopefulness, courage—infinite courage, in the light of subsequent events—were conspicuous at our last. These qualities, together with the sweet courtesy which characterized his relations with men and women of all stations, are, in a word, a description of his personal life. The last-named indispensable attribute of true gentleness, courtesy and consideration alike to all, inferiors as well as superiors, was as natural to him as life itself, and was one of the secrets of his influence over men as well as his success as a physician. It is of him as the latter and as a teacher of medicine and author that I have been asked to speak to-night in behalf of my col-

leagues of the Medical Faculty of the University and the College of Physicians of Philadelphia.

"Dr. Pepper's qualities as a physician were an unusual ability in diagnosis, a power to inspire confidence and by a rare and inimitable manner to cause those who consulted him to feel encouraged and hopeful. His ability in diagnosis was founded on a primary intelligence quickened by a rapidity of thought and comprehension which enabled him almost at a glance to recognize the disturbing causes at work in a sick person. His method of diagnosis in this respect was very different from that of his father, Dr. William Pepper, who was professor of Medicine in the University when his son and I were students. His method was to make a patient and exhaustive examination of the case, weighing each symptom and physical sign, and, after he had done so, to cautiously draw his conclusions, which were always well founded and rarely changed. The younger Pepper's diagnosis was more rapid, more brilliant and, though commonly sustained by the autopsy, had sometimes to be altered. I have often been surprised, during consultations with him, at the quickness with which he recognized a morbid condition and the causes leading to it, as well as the consequences which were sure to follow it. For many years a close student of morbid anatomy, it was his habit to conceive the morbid state whence followed naturally the symptoms of the case in hand. On the other hand, Dr. Pepper was not dogmatic in diagnosis. He was keenly alive to the possibility of error and was always ready to admit his mistakes.

"More striking even was the second attribute mentioned as characteristic of Dr. Pepper as a physician, the power to encourage and uplift those who consulted him. This effect was not confined to the sick alone. In fact, no one who knew Dr. Pepper ever failed, at some one time or other, to come under this spell of encouragement and upliftedness. Time and again I have gone to him concerning some one of the matters of our common interest, doubtful and discouraged by the outlook, and after a short interview left him hopeful

and light-hearted. So it was with the sick. Hope replaced despair in the heart of the patient, and joy replaced sadness in that of loving relatives and friends. It is needless to say that disappointment and even bitterness sometimes followed because the favorable prognosis was not always realized. Yet no one dare say that this hopefulness was assumed or that any deception was intended. It was the natural outflow of a sanguine spirit, and was a part of that same temperament which caused him to assume and carry to a successful issue large undertakings which others deemed impossible. It did far more good than harm, and many lives were prolonged and hours of agony averted and substituted by the bliss that comes of ignorance. In prescribing for patients he was not lavish of drugs, and his prescriptions were simple. He was, however, explicit and impressive in direction, so that persons rarely forgot what he ordered. Especially apt was he in the selection of diet, so that he became unusually successful in affections of the stomach and bowels, and acquired an enviable reputation as a specialist in their treatment.

"It is impossible to separate Dr. Pepper as a physician from Dr. Pepper as a teacher. From my earliest recollection of him his talks upon medical subjects gave the impression of authority, and any one proposing a new venture in teaching naturally consulted him. He himself early became an investigator and teacher. On account of his father's delicate health, the younger Pepper did not at once enter a hospital, cheerfuly sacrificing to filial duty, opportunities which he, above all others, was qualified to appreciate. On this account he sought for a time to make outdoor dispensary practice substitute the hospital, and worked up his cases in a thorough way which any one else would have deemed impossible, indeed would scarcely have thought of. I substituted for him and followed him in some of this work, and had a good opportunity of learning his methods. Later, after his father's death, which occurred in 1864, he entered the Pennsylvania Hospital as resident physician, and served eighteen months, from April, 1865, to October, 1866. This latter

course was the natural result of his enthusiasm in medicine and a determination to secure the best possible foundation. Many men, having once launched upon practice, would have thought it too great a sacrifice to go back to the beginning, and start, as it were, afresh. While at the Hospital, he was an enthusiastic worker. One could rarely enter his room without finding him peering into the microscope or dissecting out an aneurism or some other morbid product of the autopsy. He was appointed Curator of the Pathological Museum of the Pennsylvania Hospital March 26, 1866, and served until September 28, 1870. During this time he prepared a descriptive catalogue of the pathological specimens in the Museum numbering 138 closely printed octavo pages, based on one previously written by Dr. Thomas G. Morton.

"His teaching began with that of morbid anatomy in a course delivered at the Pennsylvania Hospital while Curator in 1867. He did not, however, give more than two courses at the Hospital, because the institution of an autumn course of lectures at the University of Pennsylvania, in 1868, led to his appointment as lecturer on this same subject, morbid anatomy. His election in 1867 as one of the visiting physicians to the Philadelphia Hospital (Blockley) gave him the first opportunity to lecture to large classes, and he quickly became popular as a clinical teacher. In 1870 he was appointed lecturer on Clinical Medicine in the University, and became professor of Clinical Medicine in 1876. In this year also he was appointed Medical Director of the Centennial Exposition, and received from the King of Sweden the decoration of Knight Commander of the Order of St. Olaf in recognition of his distinguished services. In 1884 he succeeded Prof. Alfred Stillé as professor of the Theory and Practice of Medicine and Clinical Medicine and held this chair until his death, July 28, 1898. During thirteen years of this period, 1881 to 1894, he was also Provost of the University.

"His greatest ability was shown in teaching clinical medicine. He attracted students and patients from all parts of the country, and his Saturday clinics were often made up of

cases who had thus come to seek his opinion. He never hesitated to take up any case, however difficult, and generally succeeded in unfolding it to the edification of the class and satisfaction of the patient.

" In didactic teaching, though attractive, he was less conspicuously successful. Latterly his numerous engagements made a thorough preparation of his lectures impossible, and led at times to a diffuseness which weakened their force and emphasis. His readiness at speaking favored this, and he has told me that this very facility of speech which served him so often and so well was really a disadvantage to him. Graceful and easy in manner, yet dignified and totally without vulgar oratorical effort, his pleasant voice, distinct utterance and great command of language made his speech truly silvern.

" Dr. Pepper's conception of the office of the medical teacher was a very broad one. He would have him broadly educated in letters and arts as well as learned in medicine, an associate of men and interested in public enterprises—in a word, a man of affairs, not a mere pedagogue in the narrower sense of the term. He considered that it was the teacher's privilege and duty to take an active part in the management of his College or University and his own life was an exemplification of his ideal.

" Dr. Pepper cannot be considered as a teacher of medicine from the standpoint of the lecturer only. As a writer he taught many more than as a lecturer. It would, however, be impossible to treat of him as an author except in the most superficial manner in the short time allotted me. With the preparation of his thesis, which was commenced in the summer of our residence at the Pennsylvania Hospital referred to, began a long series of practical papers published chiefly in the *Proceedings of the Pathological Society*, the *American Journal of the Medical Sciences*, *The Medical and Surgical Reporter*, *The Medical Times*, which he founded in 1870, and edited for two years; *The Medical News*, and finally the *Philadelphia Medical Journal*, which also owes its existence

to him. His first paper of importance was on ' The Fluorescence of Tissues,' and appeared in the first volume of the *Pennsylvania Hospital Reports* in 1868. It was prepared in conjunction with his friend, Dr. Edward Rhoads, and involved much physical and chemical research. Its object was to show that a substance found in the normal tissues by Bence Jones, which possessed a property of fluorescence like quinine and called by him ' animal quinoidine,' disappeared under the influence of the malarial poison.

" Another paper of great value published in the same volume of the *Pennsylvania Hospital Reports* was ' On the Morphological Changes of the Blood in Malarial Fever,' by Dr. J. Forsyth Meigs, assisted by, Dr. Edward Rhoads and Dr. Pepper. The article was based on the study of 123 cases of a severe form of bilious fever with six deaths which occurred in the service of Dr. Meigs at the Pennsylvania Hospital during the summer of 1865, while Dr. Pepper and Dr. Rhoads were resident physicians. All the details of the study were made by Dr. Pepper and Dr. Rhoads, and involved an enormous amount of microscopical investigation.

" Among the more important subjects treated in this earlier part of his career were ' Phosphorus Poisoning,' *American Journal of the Medical Sciences*, in 1869 ; ' Variola,' *ibid.*, 1869 ; ' Tracheotomy in Chronic Laryngitis,' *Philadelphia Medical Times*, 1870 ; ' Abdominal Tumors,' *ibid.*, 1870 ; ' Trephining in Cerebral Disease,' *American Journal of the Medical Sciences*, 1871; ' Progressive Muscular Sclerosis, or, Hypertrophic Muscular Paralysis,' *Philadelphia Medical Times*, 1871 ; ' Local Treatment of Tuberculous Cavities in the Lungs,' *American Journal of the Medical Sciences*, 1874 ; ' Operative and Treatment of Pleural Effusions,' *Philadelphia Medical Times*, 1874 ; ' Progressive Pernicious Anæmia ' *American Journal of the Medical Sciences*, 1875 ; ' Addison's Disease and Its Relations to Anæmatoses,' *ibid.*, 1877 ; ' Appendicitis,' *Transactions of the Medical Society of Pennsylvania*, 1876. The papers on ' Progressive Pernicious Anæmia,' and ' Addison's Disease ' were exhaustive and up to date of publication.

In the former he suggested the name of 'Anæmatosis,' which has been acknowledged by Hermann Eichhorst and Thomas Clifford Albutt. The paper on 'Appendicitis' was also a valuable one, his experience having been large and his studies among the first important contributions to the subject.

"Among his more recent papers was a contribution to the 'Climatological Study of Phthisis in Pennsylvania,' read before the Climatological Association at its third annual session in 1886. It was a methodical and exhaustive investigation into the territorial distribution of consumption in the State of Pennsylvania, and of its causes, illustrated by elaborate maps showing the peculiarities of soil and climate of each county, and must be the basis of all future investigations into the same subject in the State of Pennsylvania.

"Of his larger works, his edition of the late Dr. John Forsythe Meigs' book on *Diseases of Children*, published in 1870, came first. The book was largely rewritten by him and much enlarged, so that it was properly renamed, *Meigs and Pepper on Diseases of Children*. It was for years the standard text-book on this subject in this country, and was highly esteemed in England. *A System of Medicine by American Authors*, 1885–6, a treatise in five large octavo volumes, was edited by Dr. Pepper. He did not personally contribute many articles, but two of the most important, that on 'Catarrhal Pneumonia' and that on 'Relapsing Fever,' were written by him and will come to be regarded among medical classics. He had unusual opportunities for the study of relapsing fever in the epidemic which prevailed in Philadelphia in 1879, and his paper is perhaps the most valuable ever written on the subject by an American. 'Pepper's System,' as it is called, became at once the recognized authority in all diseases prevalent in this country and many thousand copies were sold in a very short time. Its success was also largely due to the signal ability shown in the selection of collaborators. No similar work published in this country included so brilliant an array of authors. Every one was anxious to enlist under his banner and no one declined.

His latest work was a *Text-book of Medicine*, by different authors. It consisted of two large octavo volumes, was published in 1893–1894, and had a large sale among students and physicians.

"Dr. Pepper's addresses, of which he made many on medical subjects, were always happy and among the most effective of his efforts. I well remember the impression made by one of the earliest of these, the 'Address in Medicine,' before the Pennsylvania State Medical Society at its meeting in Pottsville in 1875, when he was but thirty years old. Full of practical information, clearly and impressively read, it was the most refreshing event of the meeting. The older members of the Society were enthusiastic over it, and it won him many admirers.

"His two addresses, 'Higher Medical Education the True Interest of the Public and of the Profession,' read before the Medical Department of the University of Pennsylvania, were admirable examples of his power in this direction. The first was delivered October 1, 1877, on the occasion of the change of curriculum from two to three years, and the second sixteen years later, on October 2, 1893, at the inauguration of the four-year course of medical study. They abound in important and interesting information, including statistical data of great value, attractively and forcibly presented.

"To be eloquent on subjects connected with medicine is very difficult, well-nigh impossible, and yet in his presidential address before the first Pan-American Medical Congress, in Washington, September, 1893, Dr. Pepper held in rapt attention a large and promiscuous audience. Its subject was 'The State of this Continent and its Aboriginal Inhabitants at the time of its discovery by Columbus, and the obstacles which opposed him and the great men who completed his work,' together with 'The state of Medical Science in Europe at the time of the discovery and the spirit which controlled its subsequent course.' Like the two University addresses alluded to, it abounds in valuable information involving laborious historical research gathered

and collated at a time when he was excessively busy. It excited the enthusiastic admiration of the representatives from British and Spanish America, and from South America and Mexico, which was reflected in the reception given to him in the city of Mexico at the second triennial meeting of this Congress in 1896, and in the memorial meeting held in the city of Mexico since his death. The Pan-American Congress itself is a permanent monument of his ability as an organizer. At its inception he had few sympathizers, but like all else he undertook he made the Washington meeting a magnificent success, and the two splendid volumes of nearly 1200 pages each, which contain the transactions published in English and Spanish, abundantly attest it. They include a vast amount of information bearing on medicine from all parts of North and South America, which could in no other way have been accumulated. He was ably seconded in the organization of the Congress by Dr. Charles A. Reed, of Cincinnati, the Secretary General.

"Dr. Pepper took a warm interest in the medical societies of the city and country. As has been the case with so many of the medical men of Philadelphia, who obtained distinction, the Pathological Society was the arena in which he first availed himself of opportunity. He became a member in 1865, and was for a long time the most energetic and active of its members. The *Transactions* abound in reports of specimens presented by him, eighty-four in all, in a comparatively short time, and in remarks made by him on specimens exhibited by others. He was made Vice-President in 1870, and President from 1873 to 1876. He became a member of the Philadelphia County Medical Society in 1871, and of the Medical Society of the State of Pennsylvania in 1875, and in the early part of his career was a frequent contributor to their *Proceedings*. His proposition for membership to the County Medical Society was signed by Drs. Alfred Stillé, Augustus H. Fish and Charles S. Boker. The first is still living. The last two preceded Dr. Pepper in death. He was one of the founders of the Obstetrical Society of

Philadelphia in 1869. He was chairman of the Committee of Arrangements of the American Medical Association when the latter met in Philadelphia, in 1876. At the annual meeting of this Association, held at Newport, R. I., in June, 1888, he read an impressive sketch of Dr. Benjamin Rush, and became thus the instrument of numerous subscriptions made on the spot to the Rush Monument Fund. He was a member of the American Neurological and Climatological Societies, and one of the founders (1886) of the Association of American Physicians, a society then limited to one hundred of the physicians of the United States and Canada, and was its President in 1891.

"Another one of the numerous monuments to his ability as an organizer is the Triennial Congress of American Physicians and Surgeons. Although he was not the originator of this association—this distinction resting with the late Dr. Claudius Mastin, of Mobile, Ala., Dr. Pepper was chairman of the first Executive Committee, and skillfully guided this body to a successful organization of the Congress, and he made an able address at the opening meeting in Washington, September 18, 1889.

"Dr. Pepper was elected a Fellow of the College of Physicians in 1867, and immediately took an active interest in its proceedings. His most important papers were 'Trephining in Cerebral Disease,' read May 18, 1870; 'The Internal Use of Nitrate of Silver,' read May 7, 1877, and 'Addison's Disease,' read January 7, 1886. In addition to these papers, his remarks on the communications of other Fellows were always full of valuable information gained from his reading and rapidly growing experience. Thus succeeding a paper read by Dr. J. Ewing Mears, June 2, 1875, 'On Encysted Dropsy of the Peritoneum,' although Dr. Pepper had been only eleven years in practice, he cited three cases of the rare condition of encysted dropsy of the abdomen which had occurred in his practice. And thus it was with every subject which came up when he happened to be present. In consequence of the exacting demands on his time by the

numerous and important interests in which he was concerned of late years, he was compelled, much to his personal regret, to neglect the meetings of the College, but he always took a warm interest and I know looked forward to the time when, freed of some of his responsibilities, he might again contribute to its proceedings and take a hand in its management. It was through his instrumentality chiefly that, a number of years ago, about 1870, the College for a time increased its meetings to two a month, with the idea that one meeting should be devoted to scientific matters only, and the other to business. At that day, however, the number of Fellows was much smaller and there was much less activity among them, so that the semi-monthly meetings could not be maintained. Quite recently when it appeared to some of us that the time had come for the formation of a section in medicine for the purpose of stimulating this department, Dr. Pepper attended the meeting for organization, in January, 1897, though he was at the time overwhelmed with work, and had not for a long time attended a similar meeting. This was the last meeting of a Medical Society he ever attended.

" For several years prior to 1898, Philadelphia was without a first-class weekly medical journal. Dr. Pepper, always alive to the interests of Philadelphia in all directions, felt that this was a serious drawback to the positon the city had always held in medical affairs, and decided that it must not continue. Early in the fall of 1897, he began to organize a company for the purpose of establishing such a journal, and, with his usual sagacity, he sought to interest not a single school of medicine only, but all the schools in Philadelphia, as well as the profession at large. But more than this, he did what had never been done before. He succeeded in interesting prominent business men other than publishers of medical books, including those of large experience in the management of successful newspapers. By the 1st of October, 1897, the arrangements were completed, a Board of Trustees organized, and Dr. George M. Gould appointed editor, with an Executive Committee representing all inter-

ests, to aid him. On Saturday, January 1, 1898, appeared the first number of the *Philadelphia Medical Journal*, which has already established itself in the front rank of the medical journals of the world, and adds another to the many results of Dr. Pepper's public spirit and energy.

"Dr. Pepper was an easy, clear and forcible writer as he was a speaker. He had excellent command of the resources of the language and was never at a loss for appropriate and well-chosen words to express himself. He was at all times too busy a man to devote time to the evolution of ornately expressed thought or sentiment, but what he wrote was always interesting and neatly expressed. It is really necessary to go back to some of his earlier writings to appreciate the possibilities of his style in this direction. In the memoir of his dear friend, Edward Rhoads, read before the College of Physicians, February 7, 1871, will be found a sentiment which is as appropriate to this occasion as it was on that of the loving tribute to his friend. It is as follows:

"'The wheels of human life and action revolve ceaselessly, and place a rapidly increasing distance between us and any passing event. Each day's cares and activity throng the mind, and dim the images of the past that memory seeks to cherish, until the joy or sorrow that for the time filled the whole life seems in but a few months only the shadowy phantom of some far-distant experience.

"'It is true, moreover, that in a life so full and overfull of thought and action as that of the present day, there is but little leisure left to devote to the contemplation of the future, and far less to spend in reflection on the past. Whatever the past has made us, we are; whatever it has given to us, we hold and strive to make the means of securing more and more; but of what it has taken from us, we rarely think, but turn impatiently from the sorrowful reminiscences which sometimes stir in the depths of our being, muttering, "Let the dead past bury its dead." To a great extent this is needful, if we are to advance in our work actively and hopefully. But do we not often carry this too far, and in struggling

manfully against the depression and despondency which follow a great grief, often end in not only throwing off these, but also in forgetting and losing much of the sweetness and usefulness which might always remain with us?'

"That with his talents, his education, his opportunities and his energy, Dr. Pepper should have accomplished all he did as a physician, a teacher of medicine and medical writer is not strange. Others have perhaps done as much. But that he should have accomplished thus much and as much more as he did in the thirty-five short years of his active life is truly marvelous. The measure of what he accomplished outside the part allotted me to consider will appear from others before the evening has closed, but I may be permitted to sum up by saying that what he accomplished made him easily what he was at the date of his too early death—*Philadelphia's first and foremost citizen.*"

ADDRESS ON BEHALF OF THE WISTAR INSTITUTE, BY GEN. ISAAC J. WISTAR.

"I have been honored by the invitation to contribute a few words on this occasion, regarding the connection and labor of Dr. William Pepper, in respect of the institution of which he was the first President, the Wistar Institute of Anatomy and Biology. That institution, although it exists in independent or separate corporate form, is nevertheless inseparably connected, as it has always been, with the University, to which its permanent future control has been, for reasons of mutual advantage, assured. But notwithstanding the limited time at my disposal, I do not find it easy to assign its proper value to the work of Dr. Pepper in this connection, without premising a brief sketch of the Institute prior to its incorporation and existing organization.

"Caspar Wistar, whose name has been borne for nearly a century by that Institute, was born in Philadelphia in 1761, became professor of Anatomy in this University in 1808, and died in the year 1818. Though graduated in 1782 from this

University, he continued during several years to pursue his postgraduate studies in Edinburgh and London. In both places he obtained considerable reputation as an anatomist and naturalist, and continued during his life to correspond with Cuvier, Sömmering and other European scholars distinguished in those branches of learning. In London, Dr. John Hunter was still living and had filled his house with preparations of normal and abnormal anatomy, to the collection of which he had devoted his life and the entire earnings of his large practice. That collection was the completest of its kind then existing, though it was not till after the death of Hunter, and until his collection had come into the custody of the London College of Surgeons and received certain pecuniary assistance from the government, that it became the great museum it now is, the most synoptical and complete in the world, as it has appeared to me after careful examination of the principal European museums of similar character. I may add that the Hunterian museum has recently received a bequest equivalent to about a million dollars of our money, which, with previous contributions and endowments, renders it the strongest and best endowed anatomical museum now existing, if we except those which are directly supported by their respective governments.

" Dr. Wistar, having been much impressed by the practical value of Hunter's collection, as well as by the absence of any such facilities in America, commenced a similar collection immediately on taking the Philadelphia Chair of Anatomy, and from that time till his death devoted much of his time and a considerable part of his fortune to that object. His collection, which at the time of his death already had a large pecuniary as well as scientific value, was presented by his widow to the University. Dr. William E. Horner, who had been an assistant and colleague of Wistar, and ultimately succeeded to his professorial chair, continued during his life to give a competent and judicious care to the growing museum, which was also fostered and increased from time to time by many distinguished men of the medical profession.

It was also to the learning and skill of Dr. Joseph Leidy, during his long term in the same chair, that the museum is perhaps more indebted than to any other one person after the founder. The collection, already grown to large proportions, was in 1888 seriously injured by an accidental fire which destroyed the roof over it, damaged many preparations, especially those in wax, and would probably have destroyed the whole, but for the zeal and devotion of the faculty and students, some of whom were considerably injured in removing the specimens. It became evident to all, that it was useless to consume the efforts of earnest lives, and years of time, in accumulating a peculiar collection, only susceptible of slow growth and still slower replacement, unless its future safety from such ordinary accidents could be reasonably assured. But the museum, though rich in specimens, and generously fostered by three generations of the medical profession, was poor in pecuniary resources, so poor that in 1890 it had great difficulty in obtaining by subscription a small sum to support the curator and renew the antiquated catalogue.

"These circumstances having attracted the solicitude of friends of the University, of which Dr. William Pepper was then provost, as well as a professor in the medical faculty, certain questions like the following were proposed to him: What was the real value of the collection to the University and its medical education? Was the faculty and the profession sufficiently interested to keep it up if moderately assisted? To what lines of progress should its friends best address themselves? How far should the museum be combined with the instruction given to undergraduates or others? and finally, Should a safe building be obtained for it, upon what amount of secure annual income could it gradualiy advance to completeness as a museum, while discharging the other functions properly pertaining to it?

"To these and similar questions Dr. Pepper at once addressed himself with minuteness and care. He communicated with many competent persons at home and abroad, and soon arrived at such favorable conclusions, and main-

tained them with such conviction, that the project was effectively taken up. An incorporation was obtained in 1892, under a State charter, such elective rights being confirmed to the University as assured its permanent control within defined limits. The University contributed the collection and a liberal area of land for a building. A fireproof building was constructed and suitably furnished, and a sufficient endowment was vested in trustees to secure its future usefulness and progress. Perhaps the most important of those arrangements was the determination of the lines of work to be pursued, with the proper scope and functions of the Institute, and the selection of competent men to inaugurate and keep it on its designed course. In these important preliminaries Dr. Pepper was active and indispensable. With his large and ardent nature, his natural tendency was to attempt largely; to diffuse and attenuate effort, rather than to concentrate for more moderate though surer results. But no one ever conducted discussion or appreciated argument with more readiness and amiability, and his generous breadth of view served well to protect the undertaking from limitations too narrow for future eventualities. Thus the foundations at length laid with his assistance were, as all now see, broad but safe. The eminent anatomists whom he selected for director and assistant, have brought abundant knowledge and experience to their task, and have matured views which seem salutary and promising to all concerned. The success which he and they have attained during the few years of his presidency attests the minute care of small details, no less than the wealth of foresight that is especially necessary in a large experimental undertaking which, however useful it may prove in its annual progress, can scarcely be expected to reach its culmination and perfection except in a more or less distant future.

"These are some features of the indispensable usefulness of William Pepper to that institution in the early days of its revival. They have been broadly and briefly sketched in accordance with the short time allotted. He has left us at a

period of his life and labors which may be considered early and untimely; but like all other interests he cared for, which had sufficiently matured, he has left the Institute soundly based, intelligently directed and rapidly advancing on well-considered lines of action. The present distinguished Provost of the University has accepted succession in the presidency, and in his able and experienced hands, its continued success need not be considered doubtful.

"But in thus losing forever our beloved coadjutor, president and friend, under what conventional expressions can be concealed the affections rudely severed, the copartnership in public labors sundered, the joint plans and projects broken and destroyed? Chill and cold indeed seems the best philosophy that can be summoned for alleviation. Nevertheless we are not to forget that the march of nature is ever onward, and she has never changed her steps for any human grief. Disruption, change, death and reconstruction is the invariable order in which her work is done. If there be any more universal characteristic than another of all matter dead and living, it is its continual movement, its unceasing tendency to change. The fiery materials of our planet had no sooner acquired superficial consistency than modifications began in every part, that have never since been suspended for a moment. They began before terrestrial life existed, and under prevailing laws will survive it all. Constant changes of internal and external temperature have produced unceasing variations in relative land and water levels, in air and water currents, in climate, and the life which it encourages or permits. Agassiz found marks of massive ice action in tropical rocks, and Arctic explorers tell of thick beds of fossil vegetation in the now desolate regions of the pole. With the inorganic material of life, life itself has advanced from the unicellular and structureless protozoans to the comparatively recent but magnificent cranial development of man, and there is no reason to suppose that such development has ceased or will ever cease, except with the termination of all life. But for reasons that we cannot penetrate, it has been so ordained

that this perpetual and universal movement, in order to become constructive, must first be eminently destructive. When we consider the ultimate constituents of the food of vegetables and animals, and the methods by which they are appropriated and prepared for use, we cannot avoid the conclusion that while every individual life must end, all physical life is founded upon death, that it is only from death that life arises, that it is by the death of something that every creature, sentient and insentient, must live. Thus, if there can be no death without previous life, it is equally true there can be no life without antecedent death. Both are inseparable phenomena of that endless procession of conscious matter which moves forever across the face of time, and always toward higher specialization. Whether nature's methods be atomic or molecular, chemical or mechanical, is of little consequence to any single generation. To our ephemeral apprehension her operations seem of extreme slowness, but they are continuous and incessant. Even in the far-off solitudes of the universe, the stars and suns of illimitable space perish one by one and are lost to us as light-giving bodies. But they are as constantly replaced by new aggregations, so that to the unlearned or careless eye the general aspect even of remotest space remains apparently the same.

"If we descend from the measureless spaces of the universe to our own minute affairs, so the stars of our lives, the friends whom we have loved and leaned upon, depart and go hence, one by one. Despondency is too apt to follow such accumulating losses. We feel that our walk hereafter must be more solitary, that our affections are irreparably severed, our enthusiasms broken, our ambitions worthless, our projects abandoned. Yet if we are to retain any part in useful life we must resist such weakness. Even in our distress we must turn to nature, who restores more than she destroys—and contemplate the marvelous sequence with which her destructions are followed by reconstructions, death by new life, privation, struggle and apparent disaster, by more glorious progress and advance. From her continual and unceasing

processes we shall learn, that in her progress to perfection, we at least can specify no one thing that is more essential than death. From the imposing range of snow-capped mountains that regulates the climate and productions of a continent, down to a single individual life, all things have their uses and outlast them, to be replaced by new instrumentalities still better adapted to her triumphant march. We shall realize that every generation and every moment brings forth new individuals, new affections, profounder knowledge; that new backs are born for every burden, and, above all, that those reparatory processes—however painful to individuals—will go on ceaselessly throughout the future, constantly leading our posterity to new knowledge on higher planes, till long after the current generations shall have been returned to dust.

"Here in this great seat of learning—if anywhere—we may confidently look for—and perhaps gain from each other—that courage and intelligence which shall know how to yield with cheerful readiness to the common lot, content for ourselves and those we have loved, if during the brief space accorded to each, our lives have been used for the best advantage of our kind, as was that of our departed friend, William Pepper."

ADDRESS ON BEHALF OF THE ARCHEOLOGICAL AND PALEONTOLOGICAL MUSEUM OF THE UNIVERSITY OF PENNSYLVANIA, BY MR. DANIEL BAUGH.

"Nearly eleven years ago, in the early months of 1888, a few miscellaneous antiquities, given to the University by a few individuals, were gathered together in a room of this College building.

"These, including a few casts and squeezes of Babylonian inscriptions, a number of Palmyrene tombstones, and some pieces of Etruscan and Roman pottery, formed the beginning of the University Museum.

"Almost simultaneously with this modest effort, Dr. Pepper, then provost, heard that a small number of scholarly

men were organizing a scientific expedition to southern Babylonia. With his usual acumen he sought to bring this project within the patronage of the University. A connection of mutual advantage was established a year or two later by which the site of ancient Nippur was exhumed under the auspices of the University of Pennsylvania; and, in due time, rich results found their way into its possession.

"In 1889 Provost Pepper established the Museum of Archæology and Palæontology in the upper rooms of the Library Building, then just completed—where a very small portion of the collections since acquired is still displayed awaiting its installation in the new Museum of Science and Art now approaching completion.

"Concurrent with the establishment of the Museum, an Archæological Association was formed for the purpose of providing funds and, in other ways, of promoting scientific exploration in coöperation with the Museum. Archæological research and the publication of results were thus provided for by an organized effort which promised a comprehensive range of investigation.

"The work progressed rapidly. A number of earnest men and women, convinced by his own earnestness of the value of these undertakings, rallied around them, and once success was assured, Dr. Pepper, in 1891, created the Department of Archæology and Palæontology of the University of Pennsylvania.

"Since that date new sections have gradually been added. Expeditions have been sent to Peru, to Florida, to the Arctic region, and excavations have been continued upon the Euphrates and carried on in the Etruscan field—whilst, in coöperation with other organized bodies of Europe and America, collections have been secured from excavations conducted in Egypt and in Central America.

"When, after tendering his resignation as Provost of the University, Dr. Pepper, in 1894, accepted the presidency of its Department of Archæology, the peculiar qualities of his genius shone forth more brilliantly, perhaps, than they did *in any other* undertaking.

" Although a scholar by training and a leader by nature, he was then entering upon a new and special scientific field, for which nothing in his previous experience had prepared him. He was dealing with new men, new ideas, new results. Yet in an incredibly short time his masterful mind grasped the practical details of the contemporary development and of the methods of archæological research, sufficiently to enable him, not only to guide the multiple ventures of the department through the shoals of national and international connections, but to plan extensive and original departures in museum management.

" Thus equipped, he mapped out a broad policy of coöperation with other institutions, and, as a beginning, established special working relations with Harvard, the Smithsonian Institution and the Bureau of American Ethnology at Washington, as well as with the Egypt Exploration Fund and the Egypt Research Account in England.

" His acceptance of the presidency of the Pennsylvania Branch of the Archæological Institute of America, as well as his founding the American Exploration Society, of which he was also the first President, were intended to link and to lastingly cement the local interests of the Department with the general archæological interests of the country at large; and, in this city, he strove to draw into the closest possible relation the Museum of Science and Art and the Philadelphia Museums.

" He ever held in view the importance of preventing the possibility of antagonisms from arising among kindred interests, and systematically aimed at a concentration of effort. With extraordinary discernment he peered into the future and foresaw a time when the museums of the country might, to their mutual advantage, enter into an alliance, and when, by working in closer coöperation, they might offer a better service at a minimum cost to the public by lessening the existing tendency to a duplication of effort.

" Thus it was that this eminent physician, burdened with an exacting daily practice, this distinguished author of

important medical works, this public-spirited citizen who was always found in the lead of every progressive movement having for its object the promotion of public education, of public health and of public prosperity, was rapidly finding his place among the advanced thinkers on the subject of museum policy, and had he lived, he must soon have been recognized as one of our leading museum men. In no part of Dr. Pepper's brilliant career can we find a more remarkable illustration of his genius. In the four brief years of his administration he not only set the stamp of his great personality upon the scientific conduct of the work, but he obtained from the city the land necessary to carry out his museum schemes, and he raised over a half million dollars for their support. And this he did whilst carrying the burden of the many public responsibilities, the splendid representation of which here to-night testifies to his almost universal grasp of human acquirements—as well as to the unlimited scope of his public usefulness.

"His life will ever mark an era in this community, for it was an inspiration to others; and he made disciples, to whom he taught his doctrine of the insignificance of private comfort and of individual pleasure when weighed in the scales against public duty.

"'You and I must pass away,' he repeatedly said, 'but these things will last.'

"Although to some of these followers he bequeathed his ideas, this great citizen—our greatest citizen since the days of Franklin—took away with him to the grave the magnetism of his own personality, and the hopeful cheerfulness with which his untiring energy met every obstacle, and aroused in others the courage necessary to overcome difficulties. The nerve, nay, the heroism, with which to the last, in the face of physical pain and of fast-approaching death, he carried his self-imposed burdens to a point where others, less powerful than he, could lift and carry them, was an object lesson which none of us can forget.

"This he did deliberately, in spite of the warnings of his

associates and of the prayers of his friends. Indeed, what need was there of warnings to this great physician who almost daily weighed himself and carefully watched the terrible symptoms of coming dissolution—not that he might take care of himself, mark you, but that he might hasten and accomplish his task before death could overtake him! And with each stern warning, received from his own trained judgment, that his life's sands were running low, he redoubled his exertions—almost in despair because something must be left undone and because the burden must fall heavily upon those who had understood and helped him, and who now must forge on alone. 'If it costs me my life, I must see this thing through,' he would often say during the last few months of his short career, and this was said calmly, with his hand on his pulse, when death was written upon every line of his face.

"The Museum of Science and Art connected with this University was the last creation of Dr. Pepper's genius—and it was upon its welfare that he, at the time of his death, bestowed his greatest solicitude. He died on July 28, and only twenty days before that event he sought, by a formal expression, to practically soften the blow which his possible loss must inflict upon the Institution. This last thought of the dying man must ever remain a precious memory to his colleagues and to the Institution which already owes him so much.

"To-night we are assembled to do him honor, here, upon this ground which he loved so well and under the auspices of this University—his alma mater—to which he dedicated and gave the best of his life.

"We miss his thoughtful, patient face; but his spirit, his highest purpose, his living thought are still with us. They form the immortal part of his personality, and are not only embodied in the many buildings erected and in the many institutions established under his guidance, but in the hearts of those to whom he taught the great lesson of citizenship—to give, to trust, to bear; cheerful liberality, faith in the future, and the patience to work and to wait."

ADDRESS ON BEHALF OF THE GENERAL ALUMNI SOCIETY OF THE UNIVERSITY OF PENNSYLVANIA, BY HAMPTON L. CARSON, ESQ.

"It is my privilege to speak at this memorial meeting in behalf of the General Alumni Association. I do so with zeal and interest, because between the family of Dr. Pepper and my own there has long existed a close and cordial relation. Nearly forty years ago his father was my father's colleague in the Faculty of Medicine; at the present time his nephew and myself are colleagues in the Faculty of Law, another nephew is a student in my office, and I can entertain no more pleasing hope than that his sons and mine may at some future time be associated as fellow-laborers in some field of useful exertion.

"Wendell Phillips once said: 'We are sometimes so near an object that we cannot see it. I could place you so near the City Hall to-night that you would not know whether you were looking at a ton of granite or a wall of a large building. So it is with a fact. The men who stand the nearest to it are often the last to recognize either its breadth or its meaning.' I may add to this remark by saying, so it is with a great man. So long as he is alive and brushing against us, we are unable to truly estimate the value of his services, or to compute with accuracy the sum total of his energies. Our loss is so recent that perhaps it is even now too soon to appraise the character of Dr. Pepper. When Horace Binney saw Washington and Franklin on the State House pavement, I doubt if he knew, as he did fifty years later, how great and admirable they were. I believe that the next generation will perceive more clearly than ours how far above the great mass of his contemporaries Dr. Pepper stood in the varied relations of physician, teacher, author, educator and citizen.

"The first feature which strikes us is his versatility. This was extraordinary. While great in medicine, he was greater still in other fields. In speech, in the discussion of public affairs, in contact with men, he was powerful, persistent, wary

and skillful. He resembled his predecessor, Benjamin Rush, who, while laying the foundations of the greatest of American medical schools and winning professional renown, served as a member of the Continental Congress, and is enrolled among the world's immortals; but, unlike Rush, he never held or sought public office, but yet toiled ceaselessly for the public good. He was magnetic, but, his special form of magnetism was intellectual rather than sympathetic. Although kind-hearted, he was not emotional, and hence did not conquer by that subtle attraction between individuals which gives birth to blind devotion, but he swayed men by his intellectual energy, which overcame prejudice and coerced submission, a force far more potential in results, because guarded against sudden bursts of destructive impulse, and controlled by that element of calculation and business sagacity which foresees difficulty and provides against defeat. He was a man of high public aims. His whole career is a process of creation and ascension in public affairs. He stepped from the position of simple practitioner to the higher one of text-writer and professor, and from a subordinate place in a single department he rose to be the head of a great institution of learning, and when, after eleven years of incessant combat, he laid aside his battered but unpierced armor, he entered still wider fields and enlarged the scope of his labor and broadened his ever-expanding view of the needs and aspirations of the people. From the interests of a single university, he ascended to the idea of educating, first, the nation, and, subsequently, widely scattered races in the boundless field of commerce, in all those channels from which art, science, philosophy, manufactures, material growth, individual prosperity and national greatness must spring. He was a constructor of policies of far-reaching grasp. He developed interests which lay beyond or beside the knowledge and control of the ordinary man. His intellect was always awake and aggressive. If plans were brought to him for consideration, he saw at a glance their possibilities for usefulness and with unerring analysis reduced them to detail, and then, with that which

was the supreme gift of his genius, concentrated his enormous energy upon the necessary point and swept to victory by the power, persistency and directness of his attack. In this he resembled the greatest of military leaders or those heads of vast business enterprises where organization and executive talent are combined to command success. He understood men and methods. He planned well, he counseled well, he wrote well, he spoke well, he argued well, he persuaded well —and all these he did so persistently, never swerving from his purpose, that he succeeded brilliantly. We have all seen him accomplish wonderful results. He was as many-sided a man as has come to the front in the last sixty years. No other man of his native city was so much of a success in so many fields of labor. As a professional man he is a remarkable illustration of business enterprise, for no other man of the same relative professional or business prominence has ever been interested in the same degree or in the same way in public affairs. His career was a constant source of surprise, for the calling of a physician is not of a kind to awaken and start the mind in the direction of commerce, business or public interests. It would be far less surprising for a successful merchant or manufacturer or financier or lawyer to compass such ends. But the liberality of his education gave a broad base to his powers and his sympathies were free from those narrow and contracted views which cripple the usefulness of many a man of great mental vigor and great power for good through the lack of early mental training.

"In his comprehensive citizenship, in his intense concentration of energy, in his rapid power of absorption, in his eagle glance, in his power to persuade and to control, we recognize, now that he is lost to us, one of the master spirits of our progressive age. He secured the wisest and best use of all his powers in professional and civil life, but alas, by the very intensity of his action, he glided too rapidly down the stream which no human effort can ascend. He who has fashioned great ideas into practical relations with the conditions of human existence has exercised the higher attributes

of human reason and is to be counted among the benefactors of his race.

"He dreamed of a new Philadelphia. It was not the historic city which most he loved—it was the city of the future —and who can doubt, who has read his address on Franklin, that there was in his character many of the qualities which belonged to the most practical and far-seeing of Americans? He dreamed of a city greater than any which Penn had planned, with nobler charities and vaster public works than Franklin had fancied—a city richer in hospitals, in schools, in institutions of learning, in libraries, in art, in commerce and in public works, of which the Free Library, the Commercial Museums, the University and a pure water supply were but expressions, a city uniting in the aggregate all that was powerful and instructive in spiritual or material life—a city which should propel by the powerful throbbing of its heart to the extremities of the Republic the life-blood of true national greatness. He surveyed the magnificent achievements of the past; he studied the inexhaustible resources of the present, needing but free avenues to make them serviceable to man, and a wave of enthusiasm as of a mighty river rushing to the sea swept over him as the vision of an imperial future opened to his gaze. No sullenness, no selfishness, no self-seeking restrained him or bound his powers in irons. Into the comprehensive schemes of far-sighted men he entered with the ease of one accustomed to plans of magnitude, impatient and intent. Burning with a peculiar ardor all his own, he drove the powers of his mind as he drove his horses through the streets, swifter in movement than other men, always an arrow's flight in advance, and controlled by the dominant thoughts which ruled him and made him restless of delay. On the Mayor, on Councils, on private citizens, nay, on Presidents and their Cabinets and Congresses he cast his spell, converting that which was local into that which was national and might become international. Thus he toiled by day and far into the night, and often greeted with sleepless eyes the rising sun. To-morrow and to-morrow

and to-morrow became with him to-day, to-day, to-day. No fog or darkness obscured his purpose, no chill of ambition froze his heart, no palsy of politics struck down his arm, no fatigue impeded his pen, no multiplicity of pursuits enfeebled his voice; late and early, early and late he toiled, until the whole man, mind and body, became a rotary engine driving innumerable belts and shafts until all about him moved.

"When I view Dr. Pepper straining himself with almost superhuman strength to roll back the obstacles which ignorance, indifference, sloth and prejudice placed in his path until his heart burst in the effort and he dropped on the scene of his toil, I think of young Theseus tugging at the rock which covered the sword of victory, and I see through the cracked earth the golden-hilted weapon and the sandals with which we may follow in his footsteps and conquer in our turn. May I not, in the name of our fourteen thousand alumni, to whose consolidation in one general association Dr. Pepper gave so generously of his time and means, breathe the prayer that some portion of his indomitable spirit may inspire our labors, and that we, as citizens, as we traverse our ample territory and behold our enjoyment of all civil and religious blessings, our busy factories and productive industries, our fair seat of learning, crowning our thriving capital, our free, happy and prosperous people, our noble waters where our city sits enthroned, may be quickened anew in our efforts for her welfare, and that, as we press forward to the goal, an escape from great perils may be found for her, and for all of us in the future, as it has been in the past."

ADDRESS ON BEHALF OF THE AMERICAN PHILOSOPHICAL SOCIETY, BY THE HON. FREDERICK FRALEY.

"It is fitting that the American Philosophical Society should participate in services that shall record the character, work and worth of Dr. William Pepper. The members of the medical profession have always occupied prominent places on its roll; and the President of the ancient Philosophical

Society, organized by Benjamin Franklin, in 1743, was Dr. Thomas Bond, Dr. Franklin declaring that he, himself, could be of more use to the Society as its Secretary.

"When our Society was established under its present name in 1769, by the fusion of the two older bodies, Dr. Franklin was chosen its President, and the list of members then associated bears the names of prominent physicians.

"Under the Constitution of 1769, five Committees were provided for, under which the 'Promoting of Useful Knowledge' was made the work of the Society; and the second of these Committees was to labor for medicine and anatomy.

"Let us see how this has been for the last century. Dr. Franklin died in 1790, being succeeded by David Rittenhouse; Dr. Caspar Wistar, who had been elected to membership in 1787, became one of the Vice-Presidents in 1795, continuing to hold that office until 1815, when he was chosen President, as the successor of Thomas Jefferson.

"Thirteen Presidents have served since the death of Dr. Franklin, and of these, five, namely, Drs. Caspar Wistar, Nathaniel Chapman, Robert M. Patterson, Franklin Bache and George B. Wood have worthily represented the medical profession.

"I may now pay my tribute of affection and respect to Dr. William Pepper. His grandfather and my father were attached friends for many years, and I numbered among my valued friends his father, also a member of the Philosophical Society, who died in 1864, holding the Chair of Theory and Practice of Medicine in the University, the same high office which was filled by the distinguished man whose death we are now mourning. Therefore, knowing William Pepper from his youth to the day of his death, I had abundant opportunity for learning how amply he was endowed for organizing and successfully prosecuting the objects outside of the profession, to which he devoted so much successful and persistent labor. How truthful were the words Provost Harrison has said of Dr. Pepper, that 'at fifty-six he has lived his fourscore years.'

"Elected a member of the American Philosophical Society in July, 1870, he always held himself ready to fulfil any appointment confided to him, and in 1896 he was chosen one of the Vice-Presidents.

"He worked faithfully during the day, and when the night came was fully entitled to rest from his labors."

ADDRESS ON BEHALF OF THE COMMERCIAL MUSEUMS OF PHILADELPHIA, BY PROF. WILLIAM P. WILSON, PH.D.

"Dr. Pepper was a man of great diversity of character and rare attainments. He lived and was active to the extreme in two different ways.

"The one was his professional life, which grew out of the training which he gave himself and the profession which he had chosen. It included his routine medical practice, his daily visits to the University Hospital, where he was watched for and waited for by many patients, his consultations arranged for him by many physicians, and his regular lectures and teaching to the medical students in the University, with frequent addresses before medical societies and the preparation of articles and books in the special lines in which he was interested.

"These activities formed the natural occupation and business of his life, and for an ordinary mortal would have filled it so full that nothing else could have come in to it. For him, however, these were all matters of course to be rapidly and well done.

"But after all this came what I believe to have been for him the more pleasurable part of his work. It was the efforts and time which he gave to the public in many important directions. It was a second and distinct sphere of action which constituted the bulk of his efforts.

"It is not my province here to speak of the value of his work to the educational interests of this city and the country in the building of a great University, or of his advisory character in looking after the sanitation, water-supply and

health of this great city, or of the magnificent enterprise and foresight which developed the finest free-library system on this continent, but to confine myself to his relations, interests and labors in connection with the Philadelphia Museums.

"It has been a matter of wonderment to many people of Philadelphia why Dr. Pepper should have developed such a deep and lasting interest in the establishment of the Commercial Museum. The philosophical reasons why he became interested in this institution may be easily traced by carefully reviewing some of his leading tendencies of thought, looking over the various lines of work which he has accomplished, and then examining the real character of the institutions which he was fostering.

"Dr. Pepper was one of the foremost men of the country in planning schemes for public welfare and public education. His earnestness and enthusiasm in this direction were exemplified and took shape in building up the numerous departments of the University of Pennsylvania into the harmonious working organization of the great institution it now represents.

"One of the grandest thoughts which he labored to realize was the centralizing of all educational institutions, the bringing together about the University the learned societies, the libraries and professional schools, thus forming a great centre, where you could, if interested in a given line, find all kindred and allied institutions near you. He would have been glad to see the art and industrial schools, the different libraries, the academies, the institutes, the learned societies of all kinds brought near together, all of them having something in common, all of them designed to educate the individual, so that when you sought one for instruction, you could follow it out in the other adjacent institutions which might be touched by your inquiry, with the great saving of time and labor which such aggregation would give.

"The great zeal with which Dr. Pepper supported these ideas for the good of the public was not in the slightest degree an expression founded on personal interest. It had

the broadest idea possible of public welfare and public good. This conception was a grand one, and will, half a century later, find its fulfillment in many directions in this and other cities. In discovering just why Dr. Pepper became so deeply interested in the Philadelphia Museums, we must not overlook the fact that he was already engaged in the establishment of a great archæological and ethnological museum. He had conceived the idea of bringing together, under one roof, the materials which should show the development and progress of man from the remotest period to the present time. He desired to found and develop an institution which should show the history, development and environment of man.

"Just as this was beginning to be realized and to take shape in substantial collections and buildings, there came the possibility of a rapid development of museum work along other but nearly related lines. The vast and varied amount of material secured from Chicago at the close of its Exposition was just coming into the city. This led to the conception of the establishment of a great group of museums, which should be centrally located near the University. The Archæological and Ethnological Museum could be one of such group. They could be established in, and surrounded by, a beautiful park for the public good. They should be so broad and far-reaching in their scope as to go beyond the past and present history of man and his conditions, and take in all animal and plant life, all the activities in which he is at present engaged, such as commerce and economics, a complete representation of all his educational attainments up to the present time, exemplified in pedagogy, as well as in all other interests and surroundings which might together represent a brief synopsis of the world's history.

"This ideal was to be gradually made actual and to take the form of a great group of museums something after the order of the South Kensington, only in reality of much greater magnitude.

"All these ideas were actively fermenting and slowly taking shape in Dr. Pepper's mind while he was organizing and

arranging the early beginnings of the Museum of Archæology and Palæontology of the University.

" Eight months after the close of the Chicago Exposition, when the writer was struggling under the immense mass of materials brought from that city to Philadelphia, and was striving to devise some appropriate form of organization for their care which might closely connect it with the city, it was Dr. Pepper who aided in formulating the ordinance which created the museums, and who saw to it that it gave power to create a group of museums of the broadest possible scope. A part of the ordinance reads as follows:

" 'SECTION 1. The Select and Common Councils of the city of Philadelphia do ordain, that with a view of promoting the development of a great group of museums, general, scientific, economic, educational and commercial, the Councils of Philadelphia do hereby delegate the collections secured by Prof. W. P. Wilson from the World's Columbian Exposition at Chicago, as the representative of the Mayor and the Councils of the city of Philadelphia, in trust to a Board of Trustees, to be known as the Board of Trustees of the Philadelphia Museums, composed, etc.'

" To Dr. Pepper was due this broad idea of the establishment of a group of museums.

" A cluster of educational institutions of all kinds grouped about the University of Pennsylvania, had been with him a central idea, on which much of his finest and most beneficial public and educational work had been done.

" A grand group of museums, so systematized as to make visual the world's development and environment, represented for him only in another form the great educational institutions he had been striving to bring together.

" This is the secret of Dr. Pepper's first interest in this great museum scheme.

" Under his energy, under his lavish use of means, under his persuasive power in developing the keenest interest in his plans among others, had already been taken the initial steps which resulted in the creation of the handsome buildings for the Museum of Science and Art, now nearly ready for occupancy.

"In the new turn of affairs he now saw the opportunity for the rapid materializing of his plans in the establishing of a group of museums.

"The ordinance passed and approved by His Honor the Mayor, June the 15th, 1894, created a Board of Trustees for the organization of this group of museums. This Board immediately appointed Dr. Pepper its President. From this date begins his active work and great interest in this institution.

"For many reasons the Commercial and Economic Museum, which now finds a home, thanks to the liberality of the Pennsylvania Railroad Company, in the old offices on Fourth street of that company, was the first to be established.

"From this time on Dr. Pepper's energy and work knew no bounds in furthering this central idea of the development of a group of museums. He was always ready in an advisory capacity to listen to and consider any of the carefully laid plans for its advancement. His time was never too much occupied attentively to hear and weigh a proposition which would further this project. For over four years he never missed but one of the regular Board meetings, and never a single Executive Committee meeting called in the interest of this work.

"But these meetings, which took place three times each month, scarcely figured in the time devoted to the museums. During the last year he visited its offices almost daily and was in conference with its Director almost nightly. For four years there never was a time when with one day's notice, and often less, he was not ready to proceed to New York, Washington or elsewhere in its interests. For four years he gave hours of his valuable time daily to the development of this work. For four years he labored with city, with State and with Government officials, receiving their cordial aid on every hand in building up this institution.

"The city, with confidence in the work, gave money to its support, ample lands for its buildings, and the cordial encouragement of its officials.

"The State sanctioned it and supported the work with its appropriation and the good-will of its chief executive.

"The National Government furthered the development of the museums through the aid of its Consular Service over the entire world, through the good-will and aid of the State Department, and finally stamped its existence and work with a national seal, through the opening and dedication of The Philadelphia Museums by the President of the United States.

"To a man of Dr. Pepper's liberal education and cultivation there were some things about The Philadelphia Museums peculiarly attractive, that touched him on every side and were commensurate with the broadness of his training and outlook. It asked of him daily judgments on matters pertaining to foreign nations. It brought him frequently in contact with leading gentlemen from foreign countries. It led him to consider interesting questions of political economy and economics between our own and other Governments, which were interesting and refreshing. Although difficult points often in themselves, they gave him rest from the arduous duties of his medical practice.

"This new work, in considering the extension of our foreign commerce and the promotion of our manufacturing interests, led him into discussions concerning our home and foreign policy with the Ministers of the Latin-American Republics, who were organized into an Honorary Diplomatic Board for the Museums; brought him into contact with the representatives of the various foreign countries who came to examine and study the work in progress here; placed him in communication with Committees from Congress, which were considering the questions we had set before them; and frequently brought him before the Secretary of State and the President of the United States in presenting and urging the enlargement of the work of the Commercial Museum, the points it desired to carry, and what it stood ready to do in ordering and stimulating a new commerce between the United States and foreign countries.

"No one possessed such quick perception or could present

such forcible arguments on these questions of international interest as he. Often what others studied for days and weeks, when presented to him seemed at once a corollary, the truth of which was self-evident with the saying. He saw clearly the value of the principles on which the institution was founded, and was fully interested in the problems which it sought to solve. He forcibly and in the most persuasive manner presented his convictions to others, carrying the points home with arguments so conclusive that the interests of the institution were always advanced and advancing under his directing hand. This quick perception, this great interest in new and broadening questions, made him the Museums' natural benefactor and promoter in all the earlier stages of their development.

"As presiding officer of the great International Congress held here last year, to which sixteen republics of Latin-America and two empires of Europe sent representatives, Dr. Pepper became known to these delegates, not as a physician, but as a sharp, quick, clear-headed, decisive, thinking, business man. They carried with them to their respective homes in Mexico, Central America, the Argentine Republic, Brazil, Venezuela, Chile, Peru, Colombia, and other countries, such profound respect and regard for the Chairman of our meetings, that upon the announcement of his death a continued succession of condoling letters and official documents expressing sympathy and sorrow at his untimely death have been sent to us from private individuals, from Chambers of Commerce and public institutions all over Latin-America from Mexico to the Argentine Republic. Twenty-three communications from Chambers of Commerce, societies and members of our Foreign Advisory Board have been received from Mexico alone.

"One of the most noted of these meetings convened in honor and in memory of Dr. Pepper was held in the city of Mexico, and was presided over by President Diaz himself, who had long been a personal friend. This meeting was held in the Chamber of Deputies. The decorations were striking; Mexican and American flags were artistically draped together.

The different Cabinet officers were present; also the Governor of the Federal District and of other States; the foreign Ministers; the Consuls from the United States and other countries; noted physicians throughout all Mexico came to attend the meeting, especially those who had served in Committees and were personally known to Dr. Pepper through his association as first President of the Pan-American Medical Congress of 1893, and also those who had been present at the last meeting of this Congress in the city of Mexico, when Dr. Pepper was the special and honored guest of the occasion. The first speech of the meeting was from Minister Romero, who stated in the course of his remarks: 'I had the good fortune to know Dr. Pepper personally in his own country, and had an opportunity of appreciating his conspicuous merits. I did not know him in his capacity as a physician, high as were his attainments in that province, but in his capacity as an altruist, determined to do all the good that he could to his fellow-men, and devoting his time to beneficent works, to which he applied his own fortune without any other recompense than the satisfaction that comes from the consciousness of doing good.'

"Other speeches were made by noted physicians and celebrated men from many parts of Mexico. The assemblage was the most noted one that had been brought together for many years in that interesting capital. The proceedings and ceremonies were grand and impressive. They were such as might have paid tribute to an emperor.

"I have made special mention of this meeting because it not alone showed the impression that had been made upon the Mexican people by the individuality of Dr. Pepper, but the impress of his character which had gone broadcast over all Latin-America.

"A very important side of Dr. Pepper's life and character, illustrated constantly in his museum work, and one which contributed greatly to its success in all his numerous undertakings, was his rare power of bringing men together who held opposite opinions and harmonizing their different inter-

ests for the public good. He took part in nothing in which he did not lead. Few men in any walk of life possessed equal executive ability. He could put more work through in a given time than half a dozen ordinary men. His executive ability was so prominent in every phase of his work that the various boards of which he was a member, and the Committees in which he was active, always waited for him to do the needed thing in the right way and at the right time, for then it was always well done—often better done with the few moments' consideration which he gave it than in the hours of study which others could have devoted to it. It was left to him to formulate most of the resolutions, and to propose most of the methods and work of all the projects and meetings in which he took a part.

"Another extremely prominent characteristic of his life work was that he could fraternize and work with any one. If he personally disliked those with whom it was necessary for him to work, they never knew it, providing the work was well done. They received equal praise with others, where it was deserved, and the very best energy drawn from them. He was not easily prejudiced against any one, and was not likely to allow his own actions to be influenced by what some one else had said until he himself had some internal, convincing evidence; and even then, if his plans required continued association with, and labor from, a given person, his approach and relations might still remain unchanged.

"In pushing any public work to completion he was restive to the last degree until every point had been touched, every vantage ground taken, every method used, every person convinced, every one brought in line with the general object for which he was laboring. If at the eleventh hour anything could be thought of which had not been done to further the objects of the thing in hand, no labor was too great, no effort too arduous for him to undertake and push with fresh vigor and activity, although it might be in the small hours of the morning, and require the writing of a dozen letters with his own hand.

"Another characteristic and a very prominent trait was the absolute and utter lack in all of his public work of ever looking for anything for himself. No one can ever say, who has worked with Dr. Pepper in any one of his many public undertakings, that he ever planned a single thing or event to give himself benefit, either in money, credit for the work done, or public applause, or praise, or that for a moment he ever put himself before the public in order that any advantage whatsoever should come to him. His great reward in all of his work seemed to be the love of doing it, and the satisfaction he felt in that the public were better and were the beneficiaries of his work.

"I believe it may safely be estimated that he devoted fully two-thirds of his complete time to public work. When his labors are fully known and the objects and aims he was striving after for the general good of Philadelphia and the country at large are valued as they should be, I believe he will be counted one of the few great benefactors of Philadelphia."

ADDRESS ON BEHALF OF THE FREE LIBRARIES OF PHILADELPHIA, BY MR. JOHN THOMSON.

"At this advanced stage of the proceedings I am sure that I shall best meet your wishes and best express my appreciation of the honor shown me in selecting me to represent the Board of Trustees of the Free Library of Philadelphia on this occasion by confining myself to a very few remarks.

"You have heard from previous speakers much of the very remarkable man in honor of whose memory we are gathered together this evening, and yet I think that there is a characteristic in his work which is worthy of additional enforcement. You have heard of his untiring energy in promoting great works, such as the development of the University of Pennsylvania, the creation of the Commercial Museums, and other institutions through whose influence the general community could be benefited. It was, however,

distinctly characteristic of him whose premature loss we so deplore, that not only great movements, but small movements were undertaken and fostered by him with equal energy, resolution and perseverance. The thought that ruled Dr. Pepper was not, 'Is this a big and dignified matter?' but rather, 'Is this a plan which will enhance the development of the general community of the city in which I live?' Many of the speakers and even more of those now gathered together have been able to think and speak of Dr. Pepper from a life-long knowledge. That is not my case! I knew him only during the comparatively short period of some seven years, and it was the way in which he undertook and carried on the works in which he allowed me to coöperate that enables me to speak of the characteristic at which I have hinted. In January of 1893, an exhibition of rare books, fine bindings and specimens of early printing was given in the rooms of the Pennsylvania Academy of the Fine Arts. Those who had the management of it had gathered together examples of the treasures snugly hidden in over twenty of the libraries of collectors of this city, and instantly found themselves in the congenial atmosphere of a region of book-lovers. It required no longer than some twenty minutes' talk with Dr. Pepper a day or two later, and those twenty minutes seized by him from the midst of his busy office hours, when his attention was alternately occupied with professional cares, University progress and the development of the manifold schemes in which he was interested, to realize that one more useful work could be fostered. Unwilling to burden himself with an additional presidency, he yet cheerfully assumed the office of President of the Philobiblon Club as soon as he saw that another movement which could benefit the citizens could be promoted and set forward on a prosperous career through his aid. Nothing was clearer to Dr. Pepper's mind than that anything which would bring people and books closer together must be good. He had shown this in the active steps he had taken to develop the libraries of many Philadelphia institutions. No man living

realized more fully than he the untold value, at the present period of the century, of bringing people and books into increased union. It was this very activity that had led him to seek at the hands of his uncle, Mr. George S. Pepper, financial aid for the promotion of the existing libraries of the city. Every testator will form his own decision as to what institutions he will benefit and what institutions he will decline to assist, but it is impossible to overlook the influence of the nephew upon the uncle when you find that under the will of the latter, in addition to the nearly $250,000 bequeathed to the Free Library, liberal bequests were made to the Art, the Union League, the Rittenhouse and the Philadelphia Clubs, as well as to the Philadelphia, Mercantile and Apprentices' Libraries, for the purpose of enabling those institutions to establish or increase the libraries belonging to those several institutions. No one in the city of Philadelphia realized more fully, than Dr. Pepper, the splendid work that has been done by the long-established and highly appreciated libraries of the city. He knew and could appreciate the splendid collections in private houses gathered together by experts and specialists. He could enjoy, as well as any one, the library which contained specimens of all matters that make libraries valuable or the library which was confined mainly to a special line of study. He was unfailing in his generous tribute of praise to the great work accomplished by the old Philadelphia Library Company, the 'mother of all subscription libraries in America.' He recognized the long and valuable service rendered to the city by the Mercantile Library, the invaluable work accomplished by the Apprentices' Library, and the useful aid afforded to the citizens of Philadelphia by the City Institute and the other numerous institutional libraries scattered up and down through the length and breadth of the city. His knowledge and appreciation of what these institutions had accomplished only enforced in his mind the pregnancy of the phrase he so often used, 'Library talk is in the air.' He appreciated with remarkable foresight that much as these libraries had accomplished and were con-

tinuing to effect, a part only of the work that was necessary to be done had been practically undertaken. If books are good for the rich and the middle class, they are a necessity for those who are unable to buy many volumes for themselves. 'All prosperity,' he would cry, 'to the institutions that are on foot, but what is wanted is a People's Library.' 'What is a necessity, is a library in which every man, woman or child of proper age can have as ready access to its books as they can have to the few volumes stored upon the shelves of their own homes.' It is such an institution that has been established in your centre, and proud indeed the city may be of the Free Library of Philadelphia. Perhaps the most marked characteristic of Dr. Pepper was that, great as was his own enthusiasm, untiring as his labor would be, he could always enthuse those who worked with him in his own spirit. It is unnecessary to-night to speak of the delays that arose in launching the Free Library. Questions were raised whether the Free Library to be established should be an entirely new corporation or an offshoot of one of the existing libraries of the city. Whilst these questions were before the Law Courts, no one in the city rejoiced more than did Dr. Pepper that the Free Library movement was exhibited to the eyes of the people of the city in a practical form by the opening of what is now known as the Wagner Institute Branch. This proved an unexpected and extraordinary object lesson as to the value of a Free Library. Through the courtesy of the Board of Management of that institution, the first Branch of the Free Library was opened under their hospitable roof in October, 1892, just six short years ago. Its success was greater than had been anticipated by the most enthusiastic believer in the value of a Free Library. The system grew like the tendrils of a vine, and by April, 1894, four such Branches had been opened in various parts of the city. The moment the litigation was closed the writer was authorized to seek help from the Public Buildings Commission, who most generously gave to the Board of Trustees the temporary use of some rooms in the City Hall. The accom-

modation so courteously accorded was altogether insufficient, and one of the most fortunate events in the history of the Free Library was when the Trustees ascertained that the old Concert Hall could be obtained for Library purposes, and the work was moved from the City Hall to its present quarters.

"And just at this point comes an illustration of how Dr. Pepper could create, in the minds of those with whom he worked or with whom he pleaded for help, the same spirit that was displayed by himself. If the Free Library was to be worth establishing and maintaining, it was indispensable that it should be a People's Library. To become this it must be placed under the protection of the people. In other words, it must be administered on as free and open a principle as are public museums, public parks and other similar institutions. The careful way in which the Library has been administered and used by the public, shows that the people took this institution to its heart, that the people appreciated it, and that the people have used it well. Could it in any other way have taken the first position of any library in the world for the number of books it circulates every year? To maintain it the people's representatives had to appropriate considerable, but necessary, annual sums if it was to be carried on, in as thorough a manner, as it had been started. Who can examine the way in which the City Councils have answered the appeal made to them without acknowledging that they have responded nobly to the call? Appropriations have been made in a generous and willing spirit. The institution is a prosperous one, and was perhaps, in the later years of Dr. Pepper's life, as dear to his heart as the Commercial Museums or any work with which he had ever associated himself. Dr. Pepper was untiring in his efforts to lay before the members of Councils his views as to the work that a Free Library could accomplish. Hand in hand, the late President of the Library and our City Councils have labored together to maintain and advance the best interests of the institution.

"It would be tedious to relate the interest Dr. Pepper took in the legislation successfully obtained in 1895, in order

to strengthen the hands of the city in maintaining the Library. He recognized that Pennsylvania was, with the exception of one other State, the only one in the Union which had no proper legislation. He caused the need for legislation to be brought to the attention of the State Legislature, and the Act of 1895 was passed, with only two dissenting voices in the two houses. How he labored and how anxious he was about the matter no one knows as thoroughly as I do nor can his zealous work be overstated.

"That his spirit of enthusiasm has spread is shown by the liberal gifts that have begun to be bestowed on the Library. In aid of the bequest of Mr. George S. Pepper, others have been received from Robert G. White, Jonathan Livezey, George B. Roberts, Charles J. Harrah, the George W. Blabon Co., the Link Belt Co., the Messrs. William Cramp & Sons, and a munificent donation of the value of $1,000,000 from Mr. Peter A. B. Widener. The members of Councils recognize the importance of protecting the many valuable gifts of books and the splendid collection of art works which are being gradually accumulated in the Free Library, and much may be hoped for, in the way of advancing the Library, in the very near future.

"Ladies and gentlemen, all honor to the memory of Dr. Pepper—how his work has been appreciated outside the limits of the city we have just heard—but perhaps the heartiest tribute of honor to his name and labors is the quiet but earnest tribute of affectionate respect that greets our ears when what he has done is discussed, or when a sorrowful regret is heard on every side that he was so early called from his labors. Few can hope to achieve as much as he did, but none can be found who will withhold the declaration that his labors for the citizens of Philadelphia were unselfish, unstinted and fraught with untold benefits to the generations to come.

"May his memory be ever kept green in each and every one of our hearts."

ADDRESS ON BEHALF OF THE CITY OF PHILADELPHIA, BY HIS HONOR, MAYOR CHARLES F. WARWICK.

" It is almost impossible to believe that Dr. Pepper, with his unwearied activity and indomitable energy, had to succumb so quickly to the ruthless destroyer.

" Although he frequently spoke of death, it was not with fear, except that the summons might come before his work was finished.

" His loss is irreparable, for he had reached that point in his career when so much depended upon his experience, his influence, his personal direction, his accurate knowledge of requirements and his ceaseless and untiring energy, that it will be impossible to find a successor who will fill exactly the conditions or adequately meet the demands—one who will be able to take up all the threads where he dropped them and weave them into a finished fabric.

" It was my privilege during the past four years to be brought into almost daily communication with him, and I had every opportunity to study, and to become familiar with, his qualities of mind and heart.

" He was without question strongly intellectual. Although his training had been purely scientific, he was withal most practical; he could not only master details, but had a thorough comprehension of the whole; he possessed a keen perception and sound judgment; he had a genius for administration and a marvelous capacity for work; he never tired; while others slept, he toiled. He was a good judge of men, he seemed to read them by intuition; he was not given to flattery; he went straight to the point, and yet he had the power of persuasion and could induce active coöperation. In a contest, however, he was never overconfident, although optimistic and sanguine by temperament; he was too wise to neglect taking every precaution to provide against defeat. This is the wisdom that comes with experience in dealing with men. He possessed great resolution; at all times he was conscious of his power and confident of his ability to accomplish what

he set out to perform. No enterprise was too great for him to undertake, if he could see, as the result of his work, the advancement of the city's interests or the interests of those institutions in whose welfare he was so deeply concerned.

" He believed in his native city, and that her future glory depended upon the love, loyalty and efforts of her children. He felt, using the language of St. Paul, that he was ' a citizen of no mean city.'

" He fully appreciated the real worth of Philadelphia, and knew that her possibilities were great; he did not spend his time in apologizing for her so-called ' shortcomings.' He had a creative genius; he built up while others were tearing down.

" He stood not in idleness at the street corners and loudly complained, and therein he radically differed from so many people who, if we may be allowed to judge from their conduct, act as if they thought their only civic duty is to find fault. He was too busy to waste his time in this way, but gave his best years and the noblest efforts of his life to advance the welfare and to add to the fame of his beloved city.

" Obstacles thrown in his way only gave new energy to his efforts, and put fresh courage in his soul.

" A half-score of men with the civic pride and public spirit that characterized Dr. Pepper could make our city the art, scientific and intellectual centre of this country.

" His motives were often misunderstood and misconstrued, but those who labored with him know that there was an utter abnegation of self, as he pressed forward in his public work. He was philosophical under defeat, and most patient under disappointment and provocation. In all my intercourse with him in the past four years, I never heard him speak unkindly of any one. He had enemies with cutting tongues as such men always have, but ' censure,' Dean Swift says, ' is the tax a man pays to the public for being eminent.'

" He never found time to personally abuse those who opposed him; he could not be diverted from the great enter-

prises he had in hand by consuming his valuable time in paying attention to the unjust and unreasonable criticism of those who misunderstood his motives. He rose above a contention so useless, as he pushed forward on his way to great results; he trusted to the future to do him justice, and it will.

"The 'Loan Bill' was a matter in which he took the deepest interest, for he saw in it the means of accomplishing much for our city.

"For the success of this measure he worked most industriously, the opposition, much of it born of spite, envy, jealousy, and at times governed by the most sordid motives, resorted to every artifice to postpone the benefits to result from the passage of the bill, yet he fought on; he was always hopeful; under the most trying circumstances he never despaired nor surrendered.

"Though he did not live long enough to see his efforts in this particular direction entirely successful, yet he helped to sow the seed that will enable others in time to reap the harvest and claim the glory.

"Night and day he labored without ceasing; so swiftly did he run, that he fell before he reached the goal.

"He gave his time, his talents, his wealth, and sacrificed his life to the cause of the public good. The city mourns his loss. The University, the Commercial Museums, the Free Library, and a score of institutions and learned societies in which he was interested will greatly miss him.

"If we desire to do honor to his memory, it will be for us who labored with him to continue to a successful conclusion the public measures he inaugurated but left unfinished.

"I know no private citizen in this generation who has made so deep an impression upon the life and material development of our city as Dr. William Pepper.

"Such an example serves as an impetus to induce earnest participation in public affairs on the part of all our citizens.

"In the midst of the duties of a most active practice and a most exacting profession, he found time to give attention to public matters, and to urge forward in every way the pros-

perity of his native city. Would it be out of place at this time to suggest, that a monument should be erected to his memory in the immediate vicinity of the City Hall? Such a life deserves such an honor.

"His motto was, 'I must work while it is day, the night cometh when no man can work.' Alas! the shadows of night closed in too soon.

"I pay this simple tribute as his friend, but acting in my representative capacity for the city he so dearly loved, and whose prosperity he so materially advanced, I come to-night to lay upon his bier the crown of civic honor. May I not truthfully say, that in his time he was the first among all the sons of this great city?"

Mexico's Tribute

TO THE MEMORY OF

William Pepper.

On the evening of Monday, September 12, 1898, a meeting in memory of DR. PEPPER was held in the City of Mexico. President Diaz presided, many officials in high station were present, and the Medical and Scientific societies of Mexico attended in a body. The late Mexican Minister to the United States, Matias Romero, was one of the speakers. The following accounts of this notable gathering are taken, in substance, from two newspapers—*The Mexican Herald* and *The Two Republics*—both published in the City of Mexico.

Mexico's President and Medical Faculty Pay a Tribute to the Physician and Philanthropist.

The memorial exercises in honor of Dr. William Pepper, organized by Drs. Lavista, Liceaga and Carmen y Valle, who were friends of the deceased and highly regarded him, took place last night in the Chamber of Deputies.

The main hall of the chamber had been suitably adorned for the occasion. The decorations were striking and in excellent taste. A huge Mexican flag of silk hung from the top of the wall behind the dais. It was looped on one side by a band of black crape, and a medallion painted with the emblems of medicine, viz., the cup and snake. After reaching the ground, the flag was caught up again upon the side wall. This flag was draped on one side of an allegorical fresco at the extremity of the Congress Hall. On the other side, standing against the wall, was a trophy of flags, Mexican and American, artistically grouped. Below the fresco was a tablet representing one side of a sarcophagus with the name "W. Pepper" in large gilt letters.

At each corner of the raised platform in front and behind was an obelisk covered with black cloth and a palm branch and wreath in front.

The rostrum at which the President and party sat was draped in amber cloth with black crape trimmings.

Below this rostrum and all over the platform potted plants were arranged in profusion, the effect of the fan-palms and other graceful foliage of the tropics standing out against the amber drapery and the silken folds of the flags of both countries being very striking.

The frescoes on the walls on either side of the raised platform were covered with *panneaux* of black cloth with palm branches and wreaths placed against them. There were also representations of two more sides of the sarcophagus, one against each side wall, corresponding with that containing the name of "W. Pepper" in the rear. These tablets were inscribed with the words "*Comisión Ejecutiva del 2o. C. M.*

P. A., 1896" (Executive Committee of the Second Pan-American Medical Congress, 1896), and "*El Profesorado Médico de la República Mexicana, 1898*" (Corps of Medical Professors of the Mexican Republic, 1898).

This completed the decoration of the portion of the hall corresponding to the raised platform.

In the rest of the hall the boxes and rows of seats were draped with amber and black and torches burnt along the balustrades between the tiers of chairs.

The hall was illuminated with arc lamps shaded with globes of green glass and with a profusion of candles in the great central chandelier.

President Diaz appeared in the hall with his usual promptitude at seven P.M. He was received with military honors and the rendering of the national anthem. He was escorted to the central seat on the rostrum. On his right was seated Hon. Joaquin Baranda, Minister of Justice and Education, and on his left Hon. Rafael Rebollar, Governor of the Federal District. At a lower desk on the right was seated Dr. Rafael Lavista, and on the President's left Dr. Eduardo Liceaga.

The orchestra, led by Prof. Luis G. Saloma, and with Messrs. Felix Rocha, Ignacio del Angel and Pedro Valdes, as first violinists, besides over thirty other musicians, rendered Svendsen's "Andante Sostenuto," after which Hon. Matias Romero, Mexican minister to the United States, advanced to the front of the platform to the left of the President and spoke as follows:

MR. ROMERO'S SPEECH.

"*Mr. President, Ladies and Gentlemen:*—The desire of paying a sincere though feeble tribute to the distinguished merit of a man who was noted for the high personal traits that adorned his character and for the good which he did to his fellow-men during his passage through this life, and who was, moreover, a sincere friend of our country, causes me to emerge for an instant from the retirement into which I have

been forced by the most severe bereavement that can befall a man.

"I had the good fortune to know Dr. William Pepper personally in his own country, and an opportunity of appreciating his conspicuous merits. Unlike the other speakers who will deliver his panegyric to-night, I did not know him in his capacity as a physician, high as were his attainments in that province, but in his capacity as an altruist, determined to do all the good that he could to his fellow-men and devoting his time to beneficent works to which he applied his own fortune without any other recompense than the satisfaction that comes from the consciousness of doing good. He also availed himself of the advantageous position which he occupied in the United States to secure the funds necessary to carry out great and beneficial undertakings, and in a country where there are so many philanthropists, he always succeeded.

"Dr. William Pepper was one of those luminous bodies that visit our planet in human form to do good to their fellows, to serve as an example for present and future generations, to elevate and improve the condition of humanity.

"I will not attempt, nor would it be possible, to give at this moment even a summarized biographical sketch of Dr. Pepper, and all that I propose to do is to relate briefly the circumstances under which I made his acquaintance, circumstances that brought the most admirable features of his character into relief.

"Desiring to promote the trade of the United States with the other nations of the American continent, he conceived the project of establishing at Philadelphia, his native city, a commercial museum or museums for the exhibition of samples of the natural and manufactured products of each of the republics of America, so that the manufacturers of his own country, if so desiring, might examine the raw material which we produce with a view to its employment for their manufactures. This was a colossal undertaking for a single individual to attack, involving, as it did, the necessity of a

large building, a staff of scientific employés, a considerable force of clerks and other adjuncts requiring heavy expenditure. The energy of Dr. Pepper was not daunted by these difficulties, and overcoming all of them he succeeded in establishing the Commercial Museums, which were solemnly inaugurated at Philadelphia, in the presence of the President of the United States of America, on June 3, 1897.

" Dr. Pepper desired, for the better success of his undertaking, to secure the coöperation of the governments of the other nations of America, interested as they are also in such success, and as I was the senior diplomatic representative in Washington, he applied to me with a view to effecting arrangements to that end, and thus it was that I had the good fortune to make his acquaintance. He often came to Washington to confer with us, and we also, invited by him, went to Philadelphia on several occasions to visit the Museums and also to take part in their dedication, at which ceremony I, on behalf of the Latin-American diplomats, and of the Diplomatic Committee of the Museums, which he had organized, delivered an address. On December 11, 1897, the diplomatic representatives in question held a meeting at the Mexican legation at Washington which was the last that Dr. Pepper attended.

" Before his death Dr. Pepper had succeeded in securing the funds necessary not only to sustain the Museum permanently, but also to build for it a suitable edifice at a cost of several millions of dollars.

" I also had an opportunity of becoming acquainted with another of the good works of this good man, having a connection, like the former, with our country. There lives in Washington during the winter and in California during the summer, a distinguished lady, who not long ago visited this country, leaving behind her a luminous trail in the form of kindnesses done to persons in need, who delights in employing her large fortune in founding colleges and in other useful undertakings having for their object the promotion of science and the good of mankind in general. All my hearers will

understand that I refer to Mrs. Phebe A. Hearst. Dr. Pepper, who used to apply to this philanthropical lady for the funds necessary for his noble undertakings, arranged with her to send to Mexico a scientific commission to engage in archæological and anthropological studies in some of the States of the republic, with a view to the advancement of science, and, as is characteristic of people who do good for the sake of the satisfaction which they derive therefrom, and not for vain display, this fact would have been unknown to me, in spite of my personal acquaintance with both of the prime movers, had it not been for the necessity of obtaining the consent of the Mexican government to the sending of the commission, thus constraining them to communicate their plans to me. I believe that Mexico was not the only country to which they sent a commission for a like purpose.

"I, therefore, regard as laudable the exercises held to-night for the purpose of paying a tribute to the memory of a man whose life was an honor to humanity."

DR. PARRA'S SPEECH.

Dr. Porfirio Parra, who was the next speaker, and who spoke on behalf of the College of Medicine, said in part:

"*Mr. President, Ladies and Gentlemen:*—What truth, what profound philosophy, what apt and picturesque similitude are contained in the tender and famous verses of the son of the Conde de Paredes, of the never-to-be-forgotten Jorge Maurique, the pride and ornament of the court of Don Juan the second of Castile:

"'Nuestras vidas son los rios
Que van á dar á la mar
Que es el morir!'

"The gifted poet of the end of the fifteenth century doubtless was not aware that his simple couplets, penetrating as sorrow, vivid as memory, tender as the past and vague and melancholy as a troubled dream, would fly like a golden arrow through the ages and be repeated millions and millions of times by those who speak the sonorous and beautiful lan-

guage of Boscan and Garcilaso, worthy, according to Charles V, of being the speech in which to speak to God."

Dr. Parra then drew, after the style of the poet, a beautiful parallel between the life of man and the rivers of the earth, which, taking their rise in some lone spot far away in the hills, rush down the steep rocks to the level bed, now meandering between banks of flowers, now rushing through gullies and rocks and finally disappearing in the sea, which, in the life of man, is represented by death.

Dr. Parra spoke with encomium of the Anglo-Saxon race in America, and said that it had been the mother of great men, such as the venerable sage, Franklin, who by his simplicity, virtue, austere manners and varied attainments, had won the respect of the vain and frivolous court of Louis XVI, and caused Helvetius to dedicate to him a magnificent Latin hexameter in which the illustrious son of New England was praised for snatching the thunderbolt from Jove and the sceptre from tyrants; such as the peerless Washington, in whose funeral oration Henry Lee, the Virginian, said with so much truth that he was the first in peace, the first in war, and the first in the hearts of his countrymen; such as the illustrious Lincoln, who, for the good of human liberty, crushed the tremendous secession of the South and merited the simple, half-familiar yet enviable title of "Honest Abe." The portion of this continent civilized by the heroic Spanish nation has produced figures as conspicuous as the great Bolivar, the illustrious Morelos and the immortal Juarez.

Dr. Pepper belonged to the Saxon race, and displayed in his own person the indefatigable energy and the capacity for action which have made the colossal republic the wonder of the universe and a portent among nations.

The speaker then went on to give a sketch of Pepper's career, paying special attention to his energy and untiring industry. To ask of Dr. Pepper to rest was to ask of him more than his life. Death alone could give him rest, and death overtook him at Pleasanton in the bosom of a hospitable and affectionate home.

In conclusion, Dr. Parra said:

"From the regions of the North where Niagara thunders to the southern shores bathed by the straits of Magellan, the American continent puts on a garb of mourning and its inhabitants, whether they come from Anglo-Saxon stock or are descended from the Lusitanian or Iberian, address the deceased with accents of emotion, saying, 'May the earth be light to him for whom life was toil incessant.'"

After a concerto of Beethoven on the piano by Miss Rafaela Parra, with accompaniment of stringed instruments, Dr. Juan Jose Ramirez de Arellano made an address on behalf of the Board of Health.

DR. RAMIREZ DE ARELLANO'S ADDRESS.

Dr. Ramirez de Arellano said that while death was the common fate of humanity, there was this great difference, that in the case of some men their names and memories were buried with them in the tomb, but while the mortal remains of the great, the good and the wise are consigned to earth, the fragrant memory of their great deeds and virtues lives forever.

"Death is the abyss of nothingness for him who makes this earthly pilgrimage without leaving behind him even a trace of his passage, but for the man who by his virtue, his wisdom or his genius, rises above his fellows, death, in extinguishing the flicker of life, kindles the illuminating principle of the soul, which, divested of matter, rises beautiful, great and sublime, and shows from on high its resplendent merits to the admiring gaze of mankind. For such an one the tomb is the first rung of the ladder of glory; death is the beginning of life and of a life that never ends. Such was William Pepper. He was good, he was great, and he was wise, and thus his name will not perish, but will be written in letters of light in the book of those who die not but live to posterity."

Dr. Ramirez went on to say that Dr. Pepper had died when his fame was at its height, "like Henry IV on the brightest

lay of his reign, like Socrates in the midst of his disciples, his remains watered with the tears of those who loved him."

The speaker said that the honor paid to Dr. Pepper's memory was the greater in that those who paid it had not been close and devoted friends of the deceased or pupils grateful to him for his teachings. It was a tribute of homage due simply to his great worth, which had caused his name to be uttered with respect not only in his own country, but in distant lands. Mexico, as a civilized country and a lover of progress, and recognizing, too, that true genius has no country, but belongs to humanity, had hastened to do honor to the illustrious dead on account of the great things which he had accomplished in life. The honor had been made more complete by the presence of the President of the republic.

"Happy, a thousand times happy, is the savant who in dying becomes entitled to such high and enviable distinction! Happy the man who, in descending into the tomb, puts on the robes of fame, and blessed now and always be William Pepper, whose death was the beginning of his immortality."

The speech of Dr. Mendizabal came after a selection played on the harmonium, with accompaniment of stringed instruments—"Ein Albumblatt," by Wagner. Dr. Mendizabal's oration was the *clou* of the evening.

DR. MENDIZABAL'S ADDRESS.

Dr. Mendizabal said that he had accepted with pleasure the task of interpreting the sentiments of the National Academy of Medicine, at the *velada* organized in honor of the memory of Dr. Pepper, "for, in the first place, we are all aware of the great merits of the deceased and Mexican doctors were under an obligation to him, which ought to be acknowledged. During our stay in the United States, at the time of the first Pan-American Medical Congress, we were the recipients of a thousand courtesies and of a thousand marks of esteem at the hands of Dr. Pepper, attentions which signified to us a high mark of esteem and a delicate compliment to our country, for which we are deeply indebted to him. This,

then, is the reason for the present public expression of grief, which has been organized here as a mark of reverence on the occasion of the death of the illustrious doctor, whose country, like that of all other great men, embraced the whole world.

" The name of Pepper is deserving of the highest esteem. It is indeed difficult to find a man of his ability, of his knowledge and, above all, possessed of his activity. It was sufficient to see him; to note his spacious forehead serene but deepened with premature furrows, the pale transparent skin so becoming a man devoting his whole time to study, the calm glance gentle but penetrating, as if he would read the soul of those who addressed him; to hear the simple questions and short, thoughtful replies; in order to understand what he was worth.

" Pepper was a man of easy, simple and withal eloquent speech; he was calm in his reflections, of great activity in his work, and his name itself was a title of nobility, for he was the son of a notable and eminent doctor also of Philadelphia. He was not a vain man, but had the pride of a man who knew what he was worth. At the bottom, he was humble, and this explains why his great learning led him to sacrifice himself for the benefit of mankind. In temperament he was manly and energetic, without which qualities no great virtues are possible, and in the absence of which no man can fulfill his high calling on earth. He was possessed of the great quality indispensable to the acquirement of all true knowledge, namely, he mistrusted what knowledge he really had. He belonged to that privileged group of men of whom Pascal speaks, who, having learned by rote all that man is capable of knowing, realize that they know nothing. He received as his recompense the noblest reward that science has to bestow, namely, the pleasure of teaching those who do not know. He spoke with great correctness and propriety the language of Shakespeare, which was his mother tongue, as he did that of Horace, Moliere and Schiller. His great learning did not prevent his being communi-

cative and sociable and a most charming conversationalist. His manner was affable, and his actions and society were delicate and refined.

" Those of my hearers who had the pleasure of knowing this great man personally will note that we have drawn no imaginary character, but one that is true and lifelike—mere hintings of what he in reality was.

" To better appreciate what this great man was worth, a visit to the famous University of Pennsylvania is all that is necessary. There will be seen the monument which testifies to his labors and industry during his medical career of thirty-five years, and above all, during the last thirteen, in which period, to the benefit of the whole world, he filled the position of provost of this famous institution. A silent but eloquent witness of the great services he rendered to mankind is the bronze statue erected to his memory in the library of the University.

" When Pepper was placed in charge of the University in the year 1881, the building occupied an area of fifteen acres. It had nine hundred and ninety-one pupils, while the cost of maintenance did not exceed $90,000. When, in 1894, he ceased to direct the institution, it occupied fifty-three acres of land, had nearly three thousand pupils, while nearly three hundred thousand dollars were required to run it. During his period of office the Wharton School was founded (which is the only one of its kind in the United States), the veterinary school, that of bacteriology, the department for medical instruction for women, those for physical education, archæology and paleontology and laboratories for the study of chemistry and hygiene.

" But his greatest creations were, without doubt, the Museum of Art and Science, the Commercial Museum and the great Free Library known as the Free Library of Philadelphia. He soon had the good fortune to see his efforts crowned with success, for a few years after the Museum of Art and Science was established, the great discoveries of Dr. Hilprecht, in Babylon, where he had been sent by the

University, came to light—discoveries portentous in their nature, which have contributed in no small degree to enlarge our knowledge of the world as it existed three thousand years ago at least. The Museum is at the present time so vast that it has been compared with that of South Kensington, in London, and is even looked upon as the centre of science in the Western Hemisphere.

"One of the greatest undertakings of Pepper was the convening of the first Pan-American Medical Congress, which took place in Washington, in September, 1893. Nobody but a man endowed with his brilliant reputation, vast influence, indomitable energy, iron will and steadfast industry, in which he was ably seconded by Dr. Reed, of Cincinnati, the Secretary of the Congress, could have brought the undertaking to a successful issue. Mexico, more than any other nation that sent representatives to this Congress, should honor the venerable memory of Dr. Pepper, as it was this Congress which enabled her to take the place she deserves among the cultured peoples of America. Mexico is a poor country, that has been torn by internecine strife, but, fortunately, a country which, even in the midst of struggles and during the horrors of civil war, has never failed to produce eminent men who have kept alive the flame of science. Our lands lay in a state of waste, commerce was at a standstill, industries were paralyzed, and our riches hidden away with the metals in the bosom of the earth. But science had always its apostles, and youth never stood in need of able mentors to lead it onward, apostles who were often martyrs, and who often received as the reward for their zeal, persecution, banishment, the prison and even death itself.

"It is the rule of fate, written in indelible characters on every historical monument, that men, like nations, have to pass through long periods of anguish, before the day of recompense arrives, and that victory is the reward of fighting as happiness is the guerdon of long-suffering. Mexico has at length reached the stage of happiness and of victory. The hour of its redemption came at length, and with it tran-

quillity and public confidence, which for the first time in many years have made their effects felt on Mexican soil, while the unconditional protection which the government has afforded to everything tending to greatness, prosperity, credit and the good name of our fatherland, has brought about a full era of commercial, scientific, artistic and industrial revival. The result has been that this country, poor, forgotten and often most unjustly slandered, this nation, with neither fleets nor powerful armaments, with which to strike out on a career of conquest or expansion, as emblematic of power and strength, has entered fully on another field of battle, nobler, holier and more grandiose—namely, that of knowledge and intelligence. At times, with sacrifices which feeble spirits have not hesitated to describe as futile and sterile, the government has sent its gallant soldiers of peace to foreign countries, from which we have had the satisfaction of seeing them return triumphant, crowned with laurels which have been reverently deposited on the altars of the divinity which we call country.

"The city of Philadelphia owes to Dr. Pepper the prosperity and size which to-day distinguish it. If his advice had been followed colossal works would already have been undertaken there for filtering the water of the Schuylkill river. Water once mortiferous would now be converted into a healthy, salubrious, pure and delicious liquid. I repeat that I cannot and do not desire to do more than sketch the scientific and humanitarian personality of Dr. Pepper, in order to justify the importance which the Mexican National Academy of Medicine, of which he was so distinguished a member, has given to the lamentable event which has occasioned the irreparable loss of a man so eminent, so extraordinary and so learned as to be one of those referred to by Theophrastus when he says that they enjoy the great privilege of not being strangers even in the midst of strangers. In fact, the greatest men are those whose efforts on behalf of mankind have been the greatest. The whole world is the true mausoleum of these men, who

live and will always live in the memory of coming generations, so long as men continue to think and feel, so long as gratitude and justice continue to burn in the human breast and so long as men remember and understand the precious maxim of Mademoiselle Deluzzi, who said: 'Unfortunate is the man who does not smile before the cradle of the babe, and more unfortunate still the nations who do not weep over the tombs of their great.'"

Dr. Mendizabal then entered on serious and philosophical reflections with respect to death, looking upon it as a natural effect and consequence of life itself, on account of the mysteries which it enshrouds, as do so many other phenomena in nature, the inflexibility with which it wounds alike the great captains who have conquered worlds and glory by force of arms, as Cyrus, Xerxes, Hannibal, Cæsar, Alexander and Napoleon; as the great sages who have transformed the world by their thoughts, those men complete in their greatness who have been able to retire from their meditations and consecrate themselves to the service of mankind, as did Archimedes, Galileo, Socrates, Plato, Lavoissier, Pasteur and Pepper.

In speaking of the inexorability of death, he described briefly how it wounds alike the babe, the joy and enchantment of the home; the dear wife, the sweet companion of life; the affectionate mother, the model of self-abnegation and the fountain of tenderness, and the venerable old man, adorning the house with the laurels of veneration and respect.

He said that, in reality, great men, like soldiers, never die prematurely; in death, they lean against their own barricade and sleep the sleep of the just with that smile that illuminates the countenance and is the symbol of duty fulfilled, but humanity mourns their loss, for she stands in need of them. He cited the great thought of Solomon, "Nihil permanet sub sole," which makes man sorrowful and reminds him at each step of his near and inevitable end, a thought which he compared to the "Mane, thecel, fares," of Balta-

zar, which snatches him at every moment from dreams of happiness and transports him to the cruel land of reality.

He compared the fate of man in life to that of the Roman gladiators in those memorable combats known as *sine remissione*, in which the vanquished received no mercy, but were compelled to die irrevocably in the fight.

He spoke at length of the instability of everything surrounding man; everything is in a state of formation or decline, and if he studies himself he will find that everything in him also changes, everything is altered and transformed without ceasing.

Everything, he went on, that has been created shares the same fate; even the earth we inhabit, that grain of sand in the immense group of suns which people the firmament is known to man to have been a vivid astrum, a real sun.

He sees, to-day, that the bowels of the earth hardly contain the heat necessary to support the animal life thereon, and that its extremities are commencing to get cold, a fact which announces that a day will come when, from want of central heat or the thickness of the terrestrial covering, vegetation will languish and afterwards die. The woods will disappear, the atmosphere will be insufficient, and the earth will be converted into chalky land which will only serve to reflect the light of other suns; in short, the earth will become converted into another majestic moon, it is true, but a corpse after all.

He here cited a suitable thought from Alfred de Vigny, who says that he sees man disappearing sadly until the moment when he speaks and contemplates full of horror that the minutes and the hours, the days, months, years and centuries do nothing more than devour each other. He sees that on the agitated surface of that whirlpool which constitutes life, beauty and talent, power and honor, appear for a moment only and then disappear for ever.

He explained that man is not satisfied to know that in the great laboratory of nature nothing is either created or lost, but that everything is simply transformed, as Lavoissier said.

It does not console him to know that in the bosom of death itself the hymns of life are to be heard, for the elements of destruction of the human frame are the germs of life, which other beings are clamoring for with which to spring into existence, grow and invigorate.

He is not consoled, he is not satisfied, with life, for besides the matter, besides the clay which he returns to earth, man feels that he has within him something that is not material, that is not tangible, which cannot follow the law of the transformation of matter, and *that* something is a giant soul, capable of embracing heaven, capable of covering the earth with its wings.

From this spirit, as apart from matter, comes that cry of life which escapes from the lips of man when he breathes his last and which is said to live beyond the tomb, to live in the hearts of those he loved and in the memory of those who outlive him. Here, then, is the supreme satisfaction of mankind, his only consolation before the terrible problem of death.

In confirmation of this truth, he cited the great thought of Cicero, who said: "Owing to a sentiment which I cannot explain, my soul in its descent to posterity cannot see in death anything but the beginning of life," while in another part he said, "If it were false that our souls are immortal, the greatest and best would never aspire to immortality."

He said that the same thought inspired Socrates with those last words a few moments before drinking the hemlock, when he said to his disciples, "that he did not fear the destruction of his body, for he believed in the existence of an immaterial principle in his being, destined to achieve happier results from the practice of goodness and virtue."

He demonstrated, moreover, that without the hope of immortality, life would have no object, for it would serve no purpose to live so short a time and suffer so many pains and deplore so many losses; that without the hope of immortality death would be for man a cruel deception, for in the midst of the shadows that envelop him he would be face to face with the terrifying thought known as nothingness.

Finally, he said, that if we had not so many proofs of the existence in ourselves of an immortal soul we should be compelled to bless eternally him who had had the happiness of inventing it and of inculcating it on us, for this consoling creation is that which has converted the sight of man into hope and has performed the prodigy of preventing man from seeing in death either nothingness or destruction, but a glorious transformation, as Chateaubriand used to say, which, far from breaking the bonds of the heart and the sinews of intelligence, fortifies them, invigorates them and permits man to build between the visible world and the invisible a subtle ladder, an aerial bridge, which forms the communication between affection and sentiment, which enchants him with ecstasy and permits him lastly to proclaim in the critical moment of death, with Alfred de Musset (above all if he is a person of the worth and character of Pepper), that in dying he will not fall into oblivion, but that, on the contrary, the threshold of the new life looms up before him, the only happy and tranquil life, and the only enduring one, in which neither rancor nor envy exist, and which bestows upon the great benefactors of mankind, gratitude, justice, veneration and the love of posterity.

POEM BY DR. PEON Y CONTRERAS.

The proceedings terminated with a poem recited by Yucatan's physician and poet, Dr. Jose Peon y Contreras, which was much admired.

THE ATTENDANCE.

Gen. Gonzalez Cosio, Minister of the Interior, and family, occupied a box. Gen. Mena, Minister of Communications, was in the diplomatic box.

U. S. Minister Clayton and Mrs. Clayton occupied the proscenium box on the right side of the platform. They were accompanied in the box by Dr. Tobias Nuñez, Mr. Jose Romero, Mr. Fernando Liceaga and Mr. Fenton R. McCreery.

Among the other persons present were U. S. Consul General Andrew D. Barlow, Mr. and Mrs. V. M. Braschi, Major R. B. Gorsuch, Mr. Walter S. Logan of New York, Dr. Pedro C. Hinojosa, Francisco Hurtado, Dr. Augustin Chacon, Dr. Domingo Orvañanos, Dr. Ignacio Capetillo, Juan Martinez del Campo, Leopoldo Castro, Dr. Latapi, Mr. Philip F. A. Ryan and wife, Dr. Adelgaray, Dr. Abrego, Francisco S. James, David R. Contreras, Dr. Joaquin L. Vallejo, Dr. Ramon N. Prado, Dr. Perfecto Diaz, Mr. and Mrs. John R. Davis, Mr. and Mrs. Philip G. Roeder, Lic. Pablo Macedo and family, Mr. J. L. Starr Hunt, Mr. and Mrs. C. E. Cummings, W. H. Selover, L. O. Harnecker, Mrs. Dr. Liceaga and daughters, Dr. Archibald Lawson, Dr. A. W. Parsons, Dr. Quevedo y Zubieta, Dr. Lorenzo Chavez, Dr. Gabriel Silva, Dr. Antonio Salinas y Carbó, Dr. Francisco de P. Leal, Dr. F. Vazquez Gomez, Dr. Carlos Govea, Dr. Garcia, Dr. E. Lamicq, Dr. Arturo Palmero, Lic. David Lazo, F. Manzano Heredia, Dr. Vega Limon, Celedonio Carrera, N. Garcia Colin, Dr. Francisco Blazquez, Thomas Alexis Nerney, Federico Navarro, M. N. Sheldon, Dr. Tomas Noriega, Dr. Jose Ramos, Dr. Angel Gaviño, Dr. Emilio F. Montaño, Dr. Jose M. Lugo, Dr. Ignacio Ocampo, Gregorio Aldasoro, Dr. Carlos Tejeda, Dr. Francisco Ortega, Dr. Rafael S. Sevilla, Estanislao Velasco, H. H. Hinkle, Dr. Vergara Lope, the Arrillaga family, Lic. Ricardo Guzman and ladies, Dr. Roque Macouzet, Dr. Jose Donaciano Morales, Lautaro Roca, Hon. Francisco Orla, Guatemalan *charge d'affaires;* Dr. T. D. Wheatley, Dr. Rafael Lopez, Manuel Garrido, Octaviano Liceaga, Dr. Jose Ramirez, Dr. Joaquin Huici, Jose W. de Landa y Escandon, E. Kroenig, Barnardo Urueta, etc.

There were also a large number of medical students present.

The President was attended by Lieutenant-Colonel Fernando Gonzalez, the acting chief of his staff, and Lieutenant Armando Santa Cruz, both in uniform.

Oratorical and Musical Tribute Offered by Mexico to the Memory of the Late American Savant and Philanthropist.

The medical and scientific societies of Mexico and Mexican society at large last night gave a public expression of mourning over the untimely death of Dr. William Pepper, of Philadelphia, whom they did not only recognize as a man who had made himself a citizen of the world by his scientific attainments and his great work for the elevation of humanity, but also as a warm friend and admirer of the progressive spirit of the Mexican people and the great future which lies before Mexican effort in the field of science and in the work of general education and improvement. The memorial was beautifully arranged and the plans were well executed. It took place in the hall of Congress, which had been artistically draped in mourning. American and Mexican flags entwined were the most prominent part of the decoration, being grouped on one side of the tribune, the back of which was occupied by a large panel bearing the simple inscription, "William Pepper," surmounted by an allegory representing science, flanked on either side by similar panels telling of Pepper's connection with the Pan-American Medical Congress. The front of the tribune was banked up with tropical plants; black crape was used to festoon the boxes and the whole room bore the aspect of dignified mourning. The attendance was very large in the upper tier of boxes. The rest of the house was comfortably filled with representative Mexicans and many Americans. Minister Clayton and wife occupied a box of honor near the stage; among other members of the American colony present were noted Mr. and Mrs. J. R. Davis, Mr. and Mrs. Philip Roeder, Major Gorsuch, Consul General Barlow, J. L. Starr Hunt, Dr. Parsons, H. W. Selover and many others. The exercises commenced with the punctual arrival of President Diaz, who took the principal seat on the stage between Minister Barranda and Governor Rebollar. A magnificent string orchestra

from the conservatory, after having finished the national hymn, played as is always customary upon the appearance of the chief magistrate, began the program on a signal from the President with a magnificent rendering of an "Andante Sostenuto" by Svendsen. Upon another signal, Hon. Matias Romero took the speaker's stand as the first orator of the evening. After reading a telegram from the President of the University of Pennsylvania, expressing the thanks of that institution for the tribute paid to the memory of the former President of the University, Mr. Romero spoke as follows:

"The desire to pay a well-merited, if feeble, tribute to the grand achievements of a man who has been notable on account of his beautiful personal qualities, for the good that he has done to his fellow-men during his journey through this life, and who, at the same time, was one of the most sincere friends of our country, causes me to emerge for a moment from the retirement into which the worst misfortune that can befall a man has forced me.

"I had the good fortune to become personally acquainted with Dr. William Pepper in his native land, and enjoyed the opportunity of learning to appreciate his high qualities. Quite different from the other speakers, who this evening will sound his praises, I have not known him as a physician, however great his achievements in that branch, but simply as an altruist who had consecrated himself to doing every possible good to his fellow-men, devoting all his time to beneficial undertakings and supporting them out of his private means, without looking for any other recompense than the satisfaction of doing good. He employed the high position which he enjoyed in the United States to obtain the necessary aid for his grand beneficial undertakings, and he found it in that land which is so rich in philanthropists.

"Dr. William Pepper was one of those brilliant stars who come to visit our planet clothed in the human form in order to do good to their fellows, and to become an example for their contemporaries and for future generations, in order to elevate them and improve the condition of humanity.

" I do not propose, nor would it be possible to do so, even shortly, to give a biography of Dr. Pepper, but must confine myself to referring in brief outlines to the way in which I became personally acquainted with some of the most beautiful qualities of the man.

" In his desire to promote the commercial relations between the United States and the other nations of the American continent, Dr. Pepper conceived the idea of establishing in Philadelphia, his native city, commercial museums for the exhibition of the natural and industrial products of every one of the American republics in order that the manufacturers of his own country, if they felt so inclined, might have an opportunity of examining the raw products to be had on the continent which might prove useful to them in their factories. This was a tremendous undertaking for a private citizen because it required large buildings, a body of scientifically trained attendants and a large number of other employes—in other words, the expenditure of a vast amount of money. But the energy of Dr. Pepper did not flinch before such difficulties; he did overcome them all and succeeded in establishing the commercial museums which were solemnly inaugurated by the President of the United States in Philadelphia on June 3, 1897. To secure the complete success of this enterprise it was the desire of Dr. Pepper to enlist the coöperation of the governments of the other American nations who were interested in that success, and as I was the oldest of American diplomatic representatives in Washington, he came to confer with me about his projects, and in that manner I had the good fortune to learn to know him personally. Frequently he came to Washington to confer with us, and at his invitation we were several times in Philadelphia for the purpose of watching the progress of the work and also to assist at the formal opening of the museums, upon which occasion I made an address on behalf of Latin-America, and in the name of the Diplomatic Advisory Board of the museums which he had organized. December 11, 1897, all the Latin-American representatives had a reunion

in the Mexican legation in Washington, which was the last attended by Dr. Pepper. Before his death, Dr. Pepper had succeeded not only in raising funds sufficient for the permanent maintenance of the museums, but also for the construction of an adequate building to cost several millions of dollars.

" I was afforded still another occasion of learning of the good works of this remarkable man and of one which also bears close relation to our country. There was in Washington during the winter and in California during the spring a distinguished lady, who was also in our country some little time ago, leaving behind her shining memories of good works and benefits bestowed upon the deserving needy, and who takes a pleasure in employing the large wealth that is hers for the establishment of seats of learning and other good works for the development of science and the general well-being of society. All who hear me will at once understand that I am referring to Mrs. Phebe A. Hearst. Dr. Pepper appealed to this philanthropic lady for financial aid for his noble enterprises, and coöperated with her in the sending of a scientific commission to Mexico, charged with studying the archæological and anthropological data to be obtained in some of our States for the benefit of science. I should never have known anything of this, although well acquainted with both promoters, if it had not been necessary for them to communicate their plans to me for the purpose of obtaining the consent of the Mexican government for the project. Otherwise they would not have spoken of it, as they were doing good for their own satisfaction and not prompted by vanity. It is my understanding that Mexico is not the only country to which commissions have been sent with a similar object.

" For all this I consider this celebration in memory of a man whose life has been an honor to humanity a very commendable act on our part."

This brief speech was listened to with great attention. After its conclusion, a " Melodie religieuse " was beautifully given by a violin, violincello, piano and organ. Then spoke

Dr. Porfirio Parra in the name of the National Medical School, and a magnificent effort it was. Dr. Parra is one of the leading philosophical thinkers of Mexico, and his address was a thoughtful review of Dr. Pepper's work from his standpoint. He described him as the typical American, drawing a beautiful parallel between the Anglo-Saxon and the Latin-American character, and its products, doing full justice to both. To the savant's death he referred as the beginning of his immortality and praised him, happy for having reached such a high place in the hearts of his fellow-men all over the world, that death became in reality the beginning of a larger existence for him and his noble work. There was warm, feebly reproved, applause at the end of Dr. Parra's remarks.

Now came the musical treat of the program, the second movement of Beethoven's concert, op. 37, played by Señorita Rafaela Parra with a wealth of feeling and wonderful expression, in which she was more than once ably seconded by the string orchestra, one of the most intelligent-looking bodies of musicians the writer has seen or heard anywhere. The address of Dr. Arellano, a fine presentation of the social and humane qualities of Dr. Pepper, was like an upward movement in the sentiment of the evening. Wagner's "Albumblatt" fitted well into the thoughts awakened by the speaker's impressive remarks. After that music came the oration of the evening, given by Dr. Mendiozabal, who spoke without notes, and most of the time completely extemporized, frequently referring to the remarks of the speakers who had preceded him. He spoke feelingly of death, but considered it not a mere episode, but, like his predecessors, as the opening up of a new existence, without the certainty of which life would indeed not be worth the living. There was suppressed applause when the last words had fallen from his eloquent lips. The strain of his thoughts was taken up immediately after by the orchestra, which played that grand triumphal song, Haydn's "Largo," in a manner which changed the scene to the susceptible hearer into a grand cathedral filled with incense and pious submission to a higher

power. A poem, written and read by Dr. Contreras, closed the exercises. When the President arose, the audience and orchestra followed his example, and remained standing while the chief magistrate left the hall under the strains of the national hymn, which sounded on this occasion like a tribute to the memory of a great and good man. And so ended a function which must have made every countryman of Dr. Pepper feel prouder than ever of his nation, because it did produce a man worthy of being honored in such a noble way.

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In Memoriam

James Constantine Pilling

1846-1895

Pub. Mus. Dept.

James C. Pelling

JAMES CONSTANTINE PILLING.

1846--1895.

Mr. James Constantine Pilling, whose death occurred on July 26, 1895, was born in Washington, D. C., November 16, 1846. He was educated in the public schools and at Gonzaga College, and displayed in early boyhood that power of concentration and precision of intellectual effort which in later years distinguished his scientific work. He was employed, after his graduation, in Morrison's book store, and at the same time perfected himself in the then novel art of stenography. His ability in this direction soon became marked, and he quickly came to be regarded as one of the most expert shorthand writers in the country.

At the age of twenty he was employed as stenographer in court work, in committee work in Congress, and in various commissions established by Congress for the settlement of claims resulting from the civil war. In 1875 he joined the survey of the Rocky Mountain region, under Major J. W. Powell, which

organization gave a large share of attention to the Indian tribes, and from that time until 1880 he was almost continuously in the West among the native tribes, engaged in tabulating vocabularies of their languages and collecting tales of their weird mythology. The successful investigator in this line must spend many sleepless and weary nights, often go hungry and wet, and experience hardships in which only the enthusiasm born of a genuine love of science can sustain him, and during these years Mr. Pilling overtaxed his strength.

When, in 1881, Major Powell succeeded Mr. Clarence King in the directorship of the present United States Geological Survey, Mr. Pilling was made chief clerk of that bureau. He did not, however, abandon his ethnologic researches, but, as a member of the Bureau of Ethnology, also, he continued until his death to give to ethnologic and linguistic work all the time and strength he could command, and this sufficed to enable him to catalogue and index the literature relating to the languages of nearly all the Indian tribes of North America.

In 1885 there was issued by the Bureau of Ethnology a small edition of a volume of nearly 1,200 pages entitled "Proof-sheets of a Bibliography of the Languages of the North American Indians, by James Constantine Pilling." The compilation of this material had been begun some years previous as a card-cata-

logue for the use of members of the Bureau of Ethnology, and as a basis for a projected work by the Director, Major J. W. Powell, on the classification of the North American tribes by language. From year to year the work grew, and as material accumulated on his hands Mr. Pilling was encouraged to believe that a monograph of the subject might be compiled; the "Proof-sheets" was the result. This was considered by Mr. Pilling a preliminary, tentative, and incomplete catalogue, embodying information which he had gathered from printed and manuscript authorities, by personal visits to public and private libraries throughout the United States and Canada, and by an extensive correspondence. To this task Mr. Pilling had given the patient labor of years, and developed a genius for the work which later placed him in the foremost rank of bibliographers. His system of card-cataloguing and cross-referencing is a model for all workers in the same field.

After the issuance of the "Proof-sheets" Mr. Pilling had an opportunity to visit many of the national and private libraries of Europe, and in view of the large amount of new material thus collected, he was led to believe that a separate catalogue of the works relating to each of the more important linguistic stocks of North America might be prepared. In 1887 he began such a series of bibliographies, which occupied his attention to the time of his death. The

Eskimo was the initial volume; then followed, in order, the Siouan, Iroquoian, Muskhogean, Algonquian, Athapascan, Chinookan, Salishan, and Wakashan. Mr. Pilling's last energies were devoted to the preparation of a bibliography of the ancient Mexican languages; this he succeeded in practically completing, and it will be published as soon as indexed. Probably the most noted of these books is the Algonquian, which is regarded as one of the most important ethnological works in existence, and the portion of it published separately and devoted to Eliot's Indian Bible has attracted more attention than any other publication of the Bureau of Ethnology.

It is impossible to contemplate these great results of painstaking and technical effort — results not only of philologic and ethnologic, but of sociologic and literary interest — without admiration for the man who, in addition to exacting clerical labor, and in the face of hopeless and progressive disease, still struggled bravely on, building a monument to his name which shall endure so long as kindred minds shall seek for truth and the human heart bow before an honest life usefully spent.

The funeral services were held at 1343 Fifteenth Street, N. W., the late residence of Mr. Pilling, at eleven o'clock on the morning of Monday, July 29, 1895, Rev. Howard Wilbur Ennis officiating. At the conclusion of the services, which were in accordance

with the usual form employed by the Presbyterian Church, Mr. Marcus Baker, for twenty years a close friend of the deceased, made the following remarks:

"It is fitting that the kindly sentiments we all share towards him whose face now turns from us and whose voice is still, should be spoken at this time, when we are met to take final leave of our comrade, associate, and friend; but it is with misgiving that I have yielded to a request to be the speaker. If friendship for him or admiration of his nobility of character were the only requisites for the well doing of this labor of love, then indeed would it be well done. But such is not the case. May I not, then, have your sympathetic indulgence for a few moments while, as best I may, I attempt to voice our feelings as we gather around our friend, whose sufferings we rejoice to know are ended at last.

"Many and varied are the emotions of those assembled to pay the last tender tribute of respect to a departed friend. Around the bier gather the playmates of childhood, the companions of youth, the associates of mature years, and with them come those nearer by ties of blood, each stirred by his own peculiar emotions: the aged father, grief-stricken at the untimely cutting off of a favorite son; the fond brother and sister, proud of the achievements of a noble brother; and the devoted wife, who, after years of patient watching and care, bears her grief alone,—for who shall share her grief who for years has seen the dearest of all on earth to her under sentence

[illegible] steadily down, down into the valley of the shadow, where she must say good-bye and return alone. To her flows out the full measure of [illegible] as all, and yet how slight it all must seem by contrast with her lonely sorrow.

To few of us is it given to know intimately the whole life of any of our fellows. Some of us see its morning, some its evening—some more and some less—and our feelings are a reflection, as it were, of that which we have seen; hence the difficulty in forming a just estimate of the whole life of any comrade. My acquaintanceship with and affection for our friend began together some twenty years ago, and thus I knew the full middle and afternoon of his shortened life. Few of my friendships have been more pleasant or more useful. To know him was to love him, and companionship with him was an inspiration. His views were lofty and ennobling. Meanness and pettiness he hated with a consuming hatred. Coarseness was detestable to him. The ladies are always present was a maxim and rule of his life and conversation. His affections were strong and his hatreds strong, but he hated only the hateful. Placed in various positions of trust and responsibility, he had to do with many men. His sense of justice was ever watchful over the interests of the lowly and the poor, but the sluggard or the petty deceiver he despised with an indescribable intensity. His character was intense; there was nothing lukewarm or half-way about it—it was positive. His training as an executive led him to prompt conclusions, and his keen sense of justice led him, as by intuition, to decide

justly. To foreknow his decision on any question it was only needful to know the justice of the case.

"Thoroughness was a strong trait in his character. Whatever he did, he did with all his might. When as a boy he began the study of stenography, he promptly mastered the art and became prominent among the foremost experts; and when, later, he began the preparation of a catalogue of the literature relating to the languages of the North American Indians, under his enthusiastic zeal this work grew rapidly from a catalogue to a bibliography, and among bibliographies it promptly rose to foremost rank, where it now stands without a rival. Through this great work will the name of James Constantine Pilling be perpetuated and held in grateful remembrance by many who know not the author but only his name and work—a work constituting a monument more enduring than granite. To these this bibliography must seem — nay, it does seem — to be the sole work of a long and laborious life. And yet it is not so. It is less than twenty years since he entered upon its preparation, which was taken up in addition to his exacting duties as chief clerk of the Powell Survey. So skilled was he in the art of utilizing scraps of time that it was begun and carried on for about fifteen years as an addition to those duties which ordinarily consume one's whole time and energy. During the latter part of this period he was in impaired health also, fighting an unknown disease. When some five years ago the real nature of his dread malady was discovered and its progress compelled the relinquishment of his executive duties, with

characteristic resolution and courage he with one hand fought off the arch enemy and with the other pushed on with his work. But the fight was a hopeless one, and he knew it. Great, therefore, is our admiration of the courage which he could command and the results he could achieve when so disabled. Thus, in mid-life, broken in health but unbroken in courage, his great work has ended. Our admiration for his achievement is increased by considering the circumstances under which it was accomplished.

"And now, from the house of mourning let us return to our vocations, carrying fresh inspiration for our work — inspiration gathered from the contemplation of a noble and well-spent life; with grief at our loss, but with joy that our friend is free from pain at last, and with heartfelt sympathy for the bereaved ones. Their grief will finally pass away, but their pleasure in the contemplation of so noble a life will grow with the passing years."

Prompted by these remarks, Mr. Ennis spoke as follows:

"To have known the friend who has gone from us was not my privilege,— and I use the word in its fullness, but I count it an honor to place the period mark to the sentence his life has spoken.

"When we look about us and mark the life memories that are most revered and treasured, they are not of those who, having fought honorably and bravely, have returned from the battlefield, perhaps but rem-

nants of their former selves. Not even such worthy heroes receive the richest wreath of laurel. It is the name of the man who was granted the boon of laying his life, not falteringly, but freely, a sacrifice upon the altar of duty which the recording Angel of Fame writes high above his fellows in fadeless characters of matchless glory. And the hardest contested battle-fields are not marked by shock of armor, in the presence and with the encouragement of hosts, when chivalry and sentiment and fervor lend their succoring strengths; but when the warrior stands alone, fighting forces unseen, and accordingly vastly more subtle than armed men, denied alike the éclat of numbers and the enthusiasm of battle, fearful of betrayal by the weakening of his natural and best ally, the human body, buoyed up but by a consciousness of duty performed — it is then we behold the hero.

"The true badge of a manly man is his energetic desire to labor as best he has faculty and opportunity, seeking honestly to add to the general good of his kind and never questioning whose shall be the gain. Only such as he deserve place in the society and esteem of his fellows.

"If, as I believe, the good Creator was wise enough to set, and to hold in their respective orbits, the great hurtling spheres of the marvelous systems of the universe, surely when He fashioned the epitome of creation in the creature we call man, He was wise enough to appoint unto the veriest of humans a specific place and work in His surpassing plan. This special work for the performance of which he has been called into being is the profession — aye, better, the

vocation—of each of us; having found which, we may prove the temper of our manhood.

"The life that has just gone out I believe to have been such as I have described. Quick to discern his natural bent, he was no less ready to follow in that chosen path as rapidly and as long as life permitted. Delving deep in the mines of natural wisdom, he was tireless in effort to unearth treasures of truth. Dangers that would have halted brave men, he would not recognize. Bodily suffering that would fairly have incapacitated strong men, to him served but as warning that he must hasten in his life work; he needed no stronger incentive 'to do—and die.' Utterly unselfish, he found his greatest joy in doing for others. He had sunk his own identity in an overpowering zeal to be of service to the race. Science has indeed lost a faithful, fearless, and tireless servant.

"I am conscious that many of my hearers would disagree in part, perhaps *in toto*, with me in my beliefs. At this moment I am reminded of a beautiful mural painting I saw sometime since in a northern city. It was an allegory of wondrous depth of meaning, where each stroke of the artist's brush had been, as it were, the moving of the pen of mystery, writing a message to men in characters of parable. In the center of the picture stood an angel of surpassing beauty and loftiness of expression, holding an open book, while the eyes were lifted above, as if seeking from the Source of all wisdom a key to the understanding of some unillumined passage. The face, though, was lit up with a look of faith, a look 'made all of sweet accord,' fully confident of receiving an

answer to the prayer rising from the expectant eyes. This was the Angel of Light, Love, and Life; to and around whom in loving submission knelt figures, symbolic of lofty thought and aspiration, waiting for her as oracle to reveal the deep truths as yet thick veiled. At her feet grew the chaste lilies of the Resurrection. On either side stood two figures, those of an old and a young man. The twain on the one side — the aged, patient patriarch, Research, and the quick, strong youth, Intuition — stood for Science. The two on the other side — the hoary-headed saint, Reverence, and the sturdy, cheerful young man, Inspiration — represented Religion. Hovering near Science were the spirits of Devotion, of Labor, and of Truth; while the guardian angels of Religion were Purity, Faith, and Hope. The artist had caught and portrayed God's plan for the growth and development of His children, along lines, mental and moral. Religion and Science, aided by the highest faculties of honest research, should work patiently together to discover the combination 'sesame' that shall throw open the portals of the Temple of Knowledge, high, noble, and pure.

"Science and Religion have too long gone divorced. God meant it not so. May we in the eventide of the nineteenth century behold them each understanding the other better than in the past, recognizing that they should be as a complement one to the other, closely wedded and interdependent; Science, the guide of the twentieth century, leading men to the threshold of Bethlehem's inn; and in return, Religion with all confidence relying upon and glory-

ing in the achievements of the scientific world; and they together joining in the doxology of the ages.

"May we who stand in the solemnity of this hour go again to our tasks conscious that because of the faithful example of the friend taken from us we will strive to be better men, better women, finding our chiefest joy in the welfare of our fellows, having learned what the poetess meant when she sang:

> "'The man most man, with tenderest human hands,
> Works best for men, as God in Nazareth.'"

After the public announcement of the death a number of letters were received from sympathizing friends. Among them was one from his life-long associate, Major J. W. Powell. Because of this relationship and the sentiments expressed in the letter, it has been selected for reproduction here as a part of this Memorial.

"GLOUCESTER, MASS., *August 12, 1895.*

"MY DEAR MRS. PILLING:

"The death of your husband and my life-long friend was not unexpected, and it came as a relief from pain that had for years made life a burden. How great this burden of pain was is known only to yourself, and perhaps to myself; to all others I believe it was concealed by such a manifestation of courage and good-will as I have never witnessed in any other person.

"Through many of the years of active life James and I were associated, in the office and in the field. Field work led us into the wilderness of mountain and canyon, of forest and desert, away from the comforts and conveniences of civilization, where life itself was preserved by a constant struggle. In all this experience my boon companion never failed nor faltered, always doing more than

his share in the struggle for existence and in the effort necessary to fill life with joy. He never rested from his labor when labor could be of avail; he never lost courage, and courage was always in demand. He never forgot the sweet amenities of life, not even when labor and danger would seem to call for all his attention and all his energies.

"In all my life I have never known a man more steadfast to his moral and intellectual convictions, which were held with that charity for others which is possible only to those who have strong and well-founded convictions of their own. The field of research in which he was engaged was in part common ground with my own, and we were thus brought close together; and he shared with me responsibilities in financial affairs and in business operations. I thus knew him well, and I know that in everything he played a most honorable and efficient part.

"His contributions to bibliography constitute a monument to wisely directed labor, and, by reason of his great scholarship, will remain a guide to men of learning.

"Please accept this tribute from me to the great-souled man who has left us and whose loss is your loss more than that of any other person. I know well the extent of his dependence upon yourself, and of the wise care you gave to his declining years of pain and anguish. It would perhaps be presumption on my part to express my gratitude to you for the care and loving regard which you have extended to my friend, but be assured, my dear Mrs. Pilling, that it is profoundly appreciated.

"I am, yours cordially,

D. W. GREGORY.

MEMOIR

OF

EDWARD GRIFFIN PORTER

BY

SAMUEL SWETT GREEN

LIBRARY

Edward Griffin Porter

MEMOIR

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EDWARD GRIFFIN PORTER

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REPRINTED FROM

THE PUBLICATIONS

OF

The Colonial Society of Massachusetts

VOL. VI.

CAMBRIDGE

JOHN WILSON AND SON

University Press

1901

HARRIS

Porter

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MEMOIR

OF THE

REV. EDWARD GRIFFIN PORTER,

BY

SAMUEL SWETT GREEN.

EDWARD GRIFFIN PORTER was born in Boston, 24 January, 1837. He was the son of Royal Loomis Porter, editor and proprietor of the Boston Traveller, a newspaper which he started in 1825. Mr. Royal Porter died in Charleston, South Carolina, where he had gone for the benefit of his health, in 1844. Edward Porter's mother was Sarah Ann Pratt, who was born in Charlestown, Massachusetts, in 1812, and is still living.

In 1623, John Porter came from the West of England to Plymouth, in the Colony of that name. Branches of the family afterwards settled in Farmington and Hartford, Connecticut, and in Danvers and Hadley, Massachusetts. Edward Porter was descended, in the sixth generation, from the first settler in East Hartford, Connecticut. A son of the first settler there was James Porter, born in 1720. His son, James, was born in 1745. James's son, Daniel, was born in East Hartford in 1776, but after the war moved to Williamstown, Massachusetts. He had a son, Royal Loomis, born in Vermont in 1801, who was the father of Edward Griffin Porter.

Mr. Royal Porter was an only son. He graduated at Williams College in 1823 and taught school a year or two in New York State before removing to Boston. He is said to have edited the Traveller with signal ability and success, until he died. He was buried near his father in the old cemetery at Williamstown.

Edward Porter lived in Boston until he was seven years old; his father then moved to Canton, Massachusetts, but, dying within a year, the family returned to Boston. Mrs. Porter, left a widow

with three children, — Frank, Edward, and William, — soon married Nathan Carruth, a Boston merchant. The family lived in Hancock Street for about two years and then moved to Dorchester, Massachusetts, where Mr. Carruth had built a large house in the gothic style, on an elevated spot, regarded as one of the most eligible in the vicinity of Boston. Edward Porter always spoke warmly of the never-failing kindness of his step-father.

After attending several private and public schools, Porter, in 1851, entered Phillips Academy, Andover, which was then under the charge of the celebrated educator, Samuel Harvey Taylor. He remained in the Academy during the usual course of preparation for college. He graduated in the summer of 1854, after pronouncing an oration on the Genius of Labor, and left school with high hopes and a stout heart to enter upon college life.

In January, 1853, Porter united, by public profession of faith, with the Second Church in Dorchester, then under the pastoral care of the Rev. James H. Means.

It had always been Porter's wish and that of his friends that he should go to college. In 1854, he was admitted to Williams College, after examination. It was by his own choice rather than that of his friends, who preferred he should go to Harvard College, that he went to Williams. He soon became disappointed with the educational advantages offered there and with his surroundings, and in the autumn of 1855, too late to have his name appear in the first edition of the Catalogue for that year, he transferred his connection to Harvard College. While at Williams College he joined the Alpha Delta Phi Society. In Cambridge he had only a few intimate friends, but those who knew him well were warmly attached to him and respected him highly. He did not attain to a high rank in his Class, — very likely did not seek it, — but was generally regarded as industrious, thoroughly in earnest, a man of considerable attainments and good scholarship.

The Class of 1858 in Harvard College does not stand out conspicuous by reason of a large number of its members having become famous. Still, it is pleasant to remark that nearly every member has done well while he lived, and many members have become eminent. Samuel Pasco was for several years a United States Senator from Florida, and Frederic George Bromberg, William Elliot, and the late William Fitzhugh Lee have repre-

sented in Congress districts in Alabama, South Carolina, and Virginia, respectively. Locally, the names of Winslow Warren and Henry Pickering Walcott will be recognized as belonging to men who have won distinction in public life in Massachusetts. The latter has also been, for several years, a Fellow of Harvard College. Among the teachers are Benjamin Graves Brown, Professor of Mathematics in Tufts College, the lately deceased Bradbury Longfellow Cilley, and George Albert Wentworth, for many years instructors in the Phillips Exeter Academy, the veteran George Washington Copp Noble of Boston, Eugene Frederick Bliss of Cincinnati, Ohio, and Joseph Alden Shaw of the Highland Military Academy, Worcester, Massachusetts. Of the physicians, the names are well known of John Homans, Robert Thaxter Edes, John Gray Park, and George Ebenezer Francis. The Reverend Henry Wilder Foote, Minister of King's Chapel, Boston, was a member of the Class; and among those members who became lawyers are Judge Alfred Stedman Hartwell of Honolulu, Hawaiian Islands, Judge William Henry Fox of Taunton, Massachusetts, and James Clarke Davis, of Boston. Of the representatives of the Class in business may be mentioned John Lowell Gardner, recently deceased, Hersey Bradford Goodwin, and the two Tobeys, — Gerard Curtis and Horace Pratt. Well-known Boston families were represented by Fisher Ames, Josiah Bradlee, Louis Cabot, Benjamin William Crowninshield, Ozias Goodwin, Hollis Hunnewell, and Edward Bromfield Mason. George Edward Pond, who has lately died, was always an editor or editorial writer, and is particularly remembered by his connection with the Army and Navy Journal during the Civil War. The writer of this Memoir has helped to give completeness to the list of occupations in the Class by nearly thirty years' service as a librarian.

Several members of the Class of 1858 have shown a decided interest in American history, and Porter was prominent among them. The most eminent of these is Henry Adams, known to his classmates by the name of Henry Brooks Adams, by which name he was designated in the catalogue throughout his college course. George Dexter, Foote, John Charles Phillips (Porter's room-mate in the Senior year), Porter, Robert Noxon Toppan, Walcott, and Warren have been or are Resident Members of the Massachusetts Historical Society. Adams, Bliss, Dexter, Foote, Francis, Green,

Porter, and Toppan are the living and deceased members of the Class who have represented it in the American Antiquarian Society. Many members of the Class have belonged to other historical societies and served as officers in them, to say nothing of those who are past or present members of this Society.[1]

The Class lost some of its most promising members by early death, among them William Gibbons of New York City. He was with the Class for a few months as a Sophomore, but died in Cambridge in that year. The most serious losses, however, came through the Civil War. The time of the graduation of the Class was such that many members served as soldiers. Five lost their lives, and among them were such men of promise as James Jackson Lowell, Henry Lyman Patten, and Thomas Jefferson Spurr. The Class had representatives in both armies. A story is told of a meeting, during the war, of William Fitzhugh Lee, a son of General Robert E. Lee, and Nicholas Longworth Anderson. They were Generals in the Confederate and Union armies, respectively, and found themselves, one night, on opposite sides of a river. Anderson, the story runs, sent a pleasant message to his old classmate Lee, but the latter's feelings were too strong to allow him to reciprocate the courtesy. He sent back word that he could have no correspondence with a man of such objectionable principles as those of Anderson. The latter afterwards made his home in Washington. Lee's place was near that city after the war, and, as before stated, he was in Congress. The two old friends must have often laughed heartily over the above-mentioned scene when they renewed, as they did, their hearty friendship in the Capital of the country.

Porter wrote in his college class-book, 18 May, 1858, that he was to sail for Europe the next day. "My present plans," he continues, "are to travel six months in Europe with my mother, study during the following winter at Heidelberg, and return in 1859 to enter upon the study of theology." He did not return, however, until July, 1861. While abroad he studied at Berlin and Heidelberg and paid his first visit to the East, spending much time in travelling in Egypt and Syria.

In 1861, Porter took the degree of Master of Arts. In Septem-

[1] Messrs. Louis Cabot, Samuel Swett Green, Edward Griffin Porter, and Robert Noxon Toppan.

LIBRARY OF THE UNIVERSITY OF CALIFORNIA

ber of the same year, he entered the Andover Theological Seminary, and graduated from it in August, 1864. The writer of this Memoir remembers spending a pleasant day with him at Andover while he was in the Seminary. He took me on a delightful walk in the woods, allowed me to accompany him to a lecture by the celebrated Dr. Edwards Amasa Park, and in the evening escorted me to a charming reception at Abbot Academy. He had a rare faculty of finding out the beautiful scenery and interesting historic spots in every town where he stayed, became acquainted with the men best worth knowing, and, when long enough in a place, was admitted freely to its best social circles. He much enjoyed sharing his knowledge and privileges with a friend.

Mr. Porter was licensed to preach by the Norfolk Association, at Braintree, Massachusetts, 26 January, 1864. In the spring of the same year, while still connected with the Seminary, he went west in the service of the United States Sanitary Commission. There he contracted a fever which seriously impaired his health. After graduating at Andover, he remained at home in Dorchester, taking charge of a church during the absence of its pastor. In the following year he preached occasionally in various places, but did not feel strong enough to accept any proposals for settlement. By the advice of his physician and friends he sailed again for Europe, 31 May, 1866. After some time spent in England, he went to Switzerland and Italy. There he studied with great interest the Waldensian movement to give Protestant churches and schools to all the principal towns, and was almost persuaded to accept the charge of the new Italian church at Venice. He went next to Malta, and thence to the East, where he spent the spring of 1867. The work of the American Mission at Beirut and on the slopes of Mount Lebanon engaged much of his attention. Afterwards, in Greece, he aided in the distribution of some of the American supplies among the Cretan refugees. Returning through Austria and Germany, he reached Paris in time to see the close of the great Exhibition, and arrived in this country again in January, 1868. He spent a short time in arranging the materials collected in his journey, but kept in mind the work for which he had been educated.

On the first of October, 1868, Mr. Porter was ordained minister of the Hancock Congregational Church, a newly-formed Trinitarian

Society in Lexington, Massachusetts. He remained in that position for twenty-three years, and was very successful in his ministry. Although not regarded as a remarkable preacher, he was an admirable pastor and a public-spirited citizen.

As we know, Mr. Porter was not unmindful of the charm of the society of men of high social position or of those who had become eminent professionally or in politics; yet he had a happy faculty, also, of becoming interested in persons in all conditions of life and of making everybody with whom he came in contact his friend. He was universally respected and loved by his people and townsmen, and he was an especial favorite with children.

While in Lexington, Mr. Porter took an active interest in the affairs of the town. He became chairman of the School Committee and a trustee of the Public Library. He also served as chairman of a committee on the order of exercises at the celebration, in 1875, of the one hundredth anniversary of the Battle of Lexington. When he resigned his charge as pastor, in 1891, his resignation was reluctantly accepted and he was made Pastor Emeritus of the church. He always retained his citizenship in Lexington.

In 1887–88 he made another journey to the East, on that occasion visiting the missionary stations of the American Board in Turkey, India, China, and Japan. He had a strong and active interest in foreign missions, and will be very much missed in missionary circles. He also had a lively interest in the East, evidenced, and probably partially caused, by the several visits which he made to that portion of the world. He seemed to me never happier or more at home than when, standing on a platform, with a map behind him, he explained clearly and thoroughly the political situation and the religious differences in such little known states as Wallachia, Servia, and Moldavia, or expounded the causes and merits of dissensions between Mussulmans and Armenians.

Mr. Porter's services were much in demand to serve on committees and they were cheerfully and efficiently rendered. He held a large number of offices. Thus, he was a member of the Overseers' Committee to visit the Academical Department of Harvard College, and of the Boards of Visitors of Wellesley College and Bradford Academy. He was a Trustee of Abbot Academy, Andover, and of Lawrence Academy, Groton, Massachusetts. We find him helping the Trustees of the American College at Aintab in Asia Minor at

the time of its establishment, and afterwards he became President of its Board of Trustees.

Porter represented Massachusetts in the Historical Department of the Centennial Exhibition at Philadelphia, in 1876, and was a delegate of the American Antiquarian Society at the meeting of the Royal Society of Canada held in Halifax in the spring of 1897, the chief object of which was to erect a monument to John Cabot. His interest in American history was very great, and the study and presentation of portions of it occupied a considerable part of his activities and gave a coloring to most of his literary productions. He was an accomplished guide in pointing out places of historical interest in Lexington, Boston and its neighborhood, Plymouth, and other localities. His services in this capacity were regarded as very valuable, and were freely given when asked for. He always had investigations in hand. The writer of this paper remembers that for two or three years before his death Porter was actively engaged in looking up the path which in Colonial times led from Boston, through Worcester and other towns, to Springfield.

In April, 1876, Mr. Porter was elected a member of the American Antiquarian Society, and in 1880 a member of the Massachusetts Historical Society. He was also a member of the American Historical Association and of other historical organizations. In January, 1899, he was chosen President of the New England Historic Genealogical Society, and in the following summer he was elected to fellowship in the Harvard chapter of the Fraternity of Phi Beta Kappa.

In 1887, Mr. Porter published an interesting book entitled Rambles in Old Boston, New England. It is a work which is much in demand, and has for some time been out of print. He also contributed to the third volume of the Memorial History of Boston, edited by Justin Winsor, the chapter on The Beginning of the Revolution (1760–1775). In 1875, he published an Historical Sketch of the Battle of Lexington, and edited the volume containing the Proceedings of the Celebration Commemorative of the one hundredth anniversary of that battle. Among his occasional papers which have been printed are: Sermon on the death of the Reverend William Hooper Adams (H. C. 1860); Memoir of John Charles Phillips, prepared for the Massachusetts Historical Society; an Original Document of the House of Washington (thirteenth

century); an Address on the Centennial of Washington's visit to Lexington; an Address on Samuel Adams; Four Drawings of Lexington and Concord in 1775; President Garfield's Ancestry; The Ship Columbia and the Discovery of Oregon; The Cabot Celebrations of 1897; Sketches of the English towns of Dorchester, Ipswich, Billericay, and Bedford; and The Aborigines of Australia.

Mr. Porter died 5 February, 1900, at the home of his mother, Ashmont, Dorchester. Two days after, on Wednesday, 7 February, he was buried from the same place. A large assembly came together to do honor to his memory. Among those present were the venerable Dr. Cyrus Hamlin and other clergymen, a numerous delegation from his Society in Lexington, college classmates, and associates in historical and other societies.

Porter died in harness. Only a few days before his death, a corrected proof of Remarks made by him at the meeting of the American Antiquarian Society held in October, 1899, was received by its Publishing Committee. He had agreed to make Remarks at the meeting of the Massachusetts Historical Society which occurred a few days after his death, and had made other engagements to write or to speak. From boyhood Mr. Porter had been a student. His life passed smoothly. He was an industrious and useful man; and, busy, loved, and respected as he was, his death will be widely felt.

Mr. Porter was elected a Resident Member of this Society on the fifteenth of March, 1893. On the twentieth of December, following, he was appointed a member of the Committee of Publication, — a position he continued to hold until his death, and in which he rendered valuable service.

GERHARD VOM RATH.

EIN KURZES LEBENSBILD.

GERHARD VOM RATH.

EIN KURZES LEBENSBILD.

(Aus der Sitzung der Niederrheinischen Gesellschaft für Natur- und Heilkunde zu Bonn, am 7. Mai 1888.)

Gerhard vom Rath.

Geb. 20. Aug. 1830 zu Duisburg, gest. 23. April 1888 zu Coblenz.

Vor 14 Tagen hat der Tod in unseren Kreis eine grosse, schwerauszufüllende Lücke gerissen. Unser langjähriges Mitglied Gerhard vom Rath, wegen seiner ausgezeichneten Eigenschaften von uns Allen hochgeschätzt, von Vielen als Freund geliebt, wurde plötzlich und unerwartet aus seinem thätigen Leben abgerufen. Ein hervorragender Gelehrter und edler Mensch, eine Zierde deutscher Naturforschung, unserer Gesellschaft, Universität und Stadt, schied so aus unserer Mitte. Da ist es denn natürlich, dass wir heute seines Lebens und Wirkens in Liebe und Dankbarkeit gedenken.

Gerhard vom Rath entstammte einer angesehenen protestantischen Familie der Rheinprovinz. Er wurde am 20. August 1830 als zweitältester Sohn von Joh. Peter vom Rath und dessen Ehefrau Philippine, geb. Merrem, zu Duisburg geboren. Im Frühjahr 1840 siedelte er mit seinen Eltern und sechs Geschwistern nach Köln über. Im darauffolgenden Herbst kam er mit seinem älteren Bruder zu einem Landpfarrer nach Haunsheim bei Dillingen an der Donau, von dem er seinen ersten Unterricht in Latein und Griechisch empfing, während ihn der Dorfschullehrer in den Elementarfächern unterwies. Nach zwei Jahren kehrte er in's Elternhaus nach Köln zurück und besuchte von da an die mittleren und oberen Klassen des Gymnasiums an Marzellen unter Leitung des Direktors Birn-

baum. Nachdem er daselbst im Herbst 1848 seine Maturitätsprüfung bestanden hatte, liess er sich in Bonn als Student der Naturwissenschaften immatriculiren, verliess diese Universität jedoch nach einem Semester wieder, begab sich auf Wunsch seiner Eltern nach Genf, fand daselbst im Hause des Herrn Oberst Aubert, des nachmaligen Chefs des Eidgenössischen Generalstabs, freundliche Aufnahme und hörte an der Genfer Universität Astronomie bei Plantamour, sowie Gletscherkunde. Nach Beendigung der Vorlesungen unternahm er zu geologischen und geographischen Studien eine grosse Fusswanderung durch die Alpen vom Mont Blanc bis Wien und kehrte dann in die rheinische Heimath zurück. Bald darauf bezog er abermals die Universität Bonn und lag hier während drei Semestern, davon zwei mit seinen beiden jüngeren, noch lebenden Brüdern Arthur und Emil, den Studien ob. Er hörte Astronomie bei Argelander, Chemie bei Bischof und die mineralogischen Fächer bei Nöggerath und Ferdinand Römer; auch arbeitete er unter Bischof's Anleitung im chemischen Laboratorium. Von Ostern 1851 an setzte Gerhard vom Rath seine naturwissenschaftlichen Studien in Berlin unter Magnus, Rammelsberg, Weiss und Gustav Rose fort. Namentlich zog ihn letzterer mächtig an und führte ihn zuerst gründlich in die Krystallographie ein. Im gastlichen Hause dieses seines Lehrers lernte er auch dessen Bruder, den Chemiker Heinrich Rose, ferner Poggendorf und Ehrenberg, Alexander v. Humboldt, sowie manche andere Koryphäe der Wissenschaft kennen. Zu seinen Studienfreunden aus jener Zeit zählte er immer Professor Jürgen Bona Meyer in Bonn und Professor A. Schneider in Breslau.

Am 9. Juni 1853 promovirte G. vom Rath in Berlin auf Grund einer umfassenden Untersuchung des Wernerit (Skapolith), die er im Laboratorium Rammelsberg's ausgeführt hatte, und eines „multa cum laude" bestandenen Examens. Hiermit brachte er seine Universitätsstudien zu

einem vorläufigen Abschluss. Im darauffolgenden Herbst finden wir ihn in Begleitung seiner Eltern und Geschwister auf einer neunmonatlichen italienischen Reise. In Rom, wo die Familie den Winter verbrachte, widmete er sich eifrig dem Studium der Landessprache, sowie der Kunst. Darauf begab er sich mit seinem jüngeren Bruder nach Neapel, dann nach Sicilien, das beide zusammen mit J. Delius durchreisten. Dieser fand bald nach ihrer Rückkehr nach Neapel bei einer Vesuvbesteigung durch Absturz in den Krater einen jähen, frühzeitigen Tod.

Nachdem G. vom Rath mit den Seinigen im Sommer 1854 nach Köln zurückgekehrt war, wandte er seine Schritte abermals nach Berlin. Hier untersuchte er im chemischen Laboratorium von Heinrich Rose schlesische Grünsteine und andere Felsarten und unternahm dazwischen geologische Reisen nach Schlesien und Böhmen. Im August 1855 verliess er Berlin, begleitete Gustav Rose auf dessen geologischen Aufnahmen im Riesengebirge und kehrte endlich nach Köln zurück, um seine Habilitation in Bonn vorzubereiten. Dieselbe erfolgte Ostern 1856 für das Fach der Mineralogie und Geologie, welches er nun neben Nöggerath an unserer Universität vertrat. Für das Sommersemester 1856 finden wir von ihm Vorlesungen über Petrographie und geognostische Excursionen angekündigt. Von dieser Zeit an bis zu seinem Lebensende ist er volle 32 Jahre hindurch auch eines der thätigsten und anregendsten Mitglieder unserer Niederrheinischen Gesellschaft für Natur- und Heilkunde gewesen. Die Aufzählung seiner Vorträge und Mittheilungen füllt zehn Seiten des Catalogs unserer Verhandlungen.

Wir haben den Bildungsgang unseres theuren Freundes soweit ziemlich ausführlich verfolgt, besonders desshalb, weil wir darin gewissermassen den Schlüssel finden können für die wissenschaftliche Richtung, in welcher derselbe seit dem Eintritt in das akademische Lehramt durch bewundernswerthen Fleiss, ungewöhnlich viel Geschick und

Scharfsinn und überraschende Erfolge mehr als drei Jahrzehnte hindurch sich auszeichnete.

Auf der akademischen Rangleiter stieg G. vom Rath am 3. Juli 1863 zum ausserordentlichen — und am 13. April 1872 zum ordentlichen Professor empor. Im folgenden Jahre starb in Berlin sein Freund und Lehrer Gustav Rose, der am 6. August 1858 auch sein Schwiegervater geworden war. Den ehrenvollen Ruf, dessen Nachfolger zu werden, welcher am 12. Sept. 1873 an ihn erging, lehnte er nach reiflicher Erwägung aller Verhältnisse, namentlich mit Rücksicht auf seine leidende Frau, ab.

Erwähnen wir noch, indem wir anderen Ereignissen seines Lebens vorgreifen, dass er im März 1879 zum Rang eines Geheimen Bergraths befördert wurde. Um die Anstellung eines zweiten Ordinarius für sein Fach und seine Enthebung von den Pflichten eines Museums-Direktors zu ermöglichen, verzichtete er im Jahre 1880 auf sein Gehalt. Schwere Schicksalsschläge und der Wunsch, Zeit für grössere wissenschaftliche Reisen zu gewinnen, hatten ihn zu diesem Entschlusse geführt. Um noch unabhängiger von der Universität zu werden und solche Reisen auch ohne Erlaubniss seiner Vorgesetzten machen und ausdehnen zu können, wandte er sich im verflossenen Winter an den Herrn Minister mit der Bitte, ihn als ordentlichen Professor zu entlassen und zum ordentlichen Honorarprofessor zu ernennen. Dieser Wunsch wurde ihm durch allerhöchste Verfügung vom 25. Januar 1888 „und mit dem Ausdruck der wärmsten Anerkennung für seine langjährige verdienstreiche Wirksamkeit“ gewährt.

Haben wir so im Vorhergehenden des Bildungsganges und der äusseren Stellung unseres entschlafenen Mitgliedes gedacht, bei welchen der Gelehrte sich entfaltete, so müssen wir nun zur vollen Würdigung seines Wesens auch seine Familienverhältnisse kurz in Betracht ziehen. Seinen Eltern ist er stets ein dankbarer und gehorsamer Sohn, seinen Geschwistern ein lieber Bruder und treuer Freund ge-

wesen. Den Vater verlor er schon im Jahre 1866. An der von ihm hochverehrten Mutter behielt er noch bis zu ihrem späten Lebensabend und Tode im Herbst 1887 eine allezeit treue Stütze und Beratherin. Sie kannte und verstand ihn völlig, nahm Theil an seinen Sorgen und Freuden und folgte mit hohem Interesse und Verständniss seinen Arbeiten und vielen Reisen.

Seine von ihm inniggeliebte Gattin Marie, geb. Rose, erkrankte ihm früh. Ein unheilbares Leiden brach bald die Kraft ihres Körpers; aber ihr Geist blieb ungeschwächt und die Seelenharmonie mit ihrem Manne ungetrübt. Ueber 20 Jahre lang trug sie gottergeben und mit grosser Standhaftigkeit und Geduld ihr Leiden, bis der Tod sie im August 1880 erlöste. Gott hatte ihnen ausser früh verstorbenen Zwillingen im Jahre 1860 einen Sohn geschenkt. Hans vom Rath entwickelte sich körperlich und geistig nach Wunsch und war ein hochbegabter Knabe, der Eltern und Verwandten viel Freude machte. Am 5. Februar 1874 wurde ihnen auch dieses Glück genommen: eine tückische Krankheit entriss ihnen den 14jährigen hoffnungsvollen Jüngling. Da brach dem Vater nahezu das Herz. Seinem tiefen Schmerz hat er damals in verschiedener Weise Ausdruck gegeben. Zum Andenken an den vortrefflichen Schüler übergab er dem Gymnasium die Mittel zur Hans vom Rath'schen Stiftung. Im Jahre 1882, also zwei Jahre nach dem Tode seiner Frau, starb ihm auch die treue Pflegerin derselben, seine Adoptivtochter Julie Mieg, nach längerem schweren Krankenlager.

So stand denn Gerhard vom Rath ganz vereinsamt, tief gebeugt und lebensmüde in seinem Hause da, und selbst das Reisen und die Arbeit hatten ihren früheren Reiz verloren. Da brach ihm ein neuer Lebensmorgen an, voll Friede und Glück. An der Seite seiner zweiten Gattin Josephine, geb. Bouvier, fand er 1883 zur Freude aller Freunde und Verwandten den langentbehrten Sonnenschein des Lebens wieder. Sie wurde seine getreue Ge-

fährtin auf seinen Ausflügen und Reisen, ein unverdrossener, verständnissreicher Gehülfe bei seinen Arbeiten, ein Gesinnungsgenosse und kluger Berather bei allen Werken der Liebe. Zum Wirken und Schaffen war neue Lust gekommen; er machte Reisepläne auf Jahre hinaus und Niemand ahnte, dass der Tod ihnen schon sobald ein Ende bereiten werde.

Nicht nach langer Krankheit oder von Alter gebeugt, sank unser Freund dahin, sondern schnell und unerwartet, in voller Körperkraft, Geistesfrische und Schaffensfreudigkeit, und noch weit entfernt von den Jahren, die der Psalmist als Grenze des menschlichen Lebens bezeichnet. Im Begriff, eine Erholungs- und Studienreise nach Italien anzutreten, zur Seite seiner treuen Gattin und eines Freundes, traf ihn, den schlanken und mässigen Mann, am 19. April im Bahnhofe zu Coblenz der überraschende Hirnschlag. Schmerz- und bewusstlos sank er zusammen und blieb es, bis am 23. April ein sanfter Tod folgte. Die Glieder, die ihn so oft und sicher auf seinen zahlreichen Reisen in die verschiedensten Werkstätten der Natur und der Menschen getragen, versagten ihren Dienst gleichzeitig mit den klaren blauen Augen, welche sonst so rasch und scharf die eigenartigen Gebilde der leblosen Natur erfassten, und die zugleich ein treuer Spiegel seiner biederen Gesinnung und Herzensgüte waren, die mit Wohlgefallen auf allem Edlen ruhten und vom Hülfsbedürftigen sich nicht abwandten.

Am 26. April hat auf dem alten Friedhof zu Bonn das Grab, in welches er seine verstorbenen Lieben gebettet hatte, auch ihn aufgenommen. —

Die wissenschaftlichen Verdienste Gerhard's vom Rath liegen besonders auf mineralogischem, dann auch auf geologisch-geographischem Gebiete. In seinen epochemachenden krystallographischen Arbeiten erkennt man das scharfe Auge und die klare Beobachtungsgabe, die Sorgfalt und das Geschick des unermüdlich strengen und exacten

Forschers. „Dieselben sind", wie einer seiner hervorragenden Fachgenossen schreibt, „so ungeheuer umfangreich und eigentlich alle so bedeutend, dass ich kaum weiss, auf welche ich die Aufmerksamkeit besonders richten sollte. Es sind fast alles musterhafte, klassische Arbeiten." — Ich kann hier nur einige derselben, diejenigen über die Feldspathe, den Leucit, Kalkspath, Humit, Quarz und den von ihm entdeckten Tridymit erwähnen und muss es einem competenteren Mitgliede unserer Gesellschaft, dem Herrn Professor Laspeyres überlassen, dieselben später in der rechten Weise zu würdigen. — Hatte G. vom Rath, der mit fast allen bedeutenderen Mineralogen der alten und neuen Welt in Beziehungen stand, durch diese oder auf seinen Reisen irgend ein werthvolles, seltenes Mineral erworben und untersucht, so war seine grösste Freude, es in die Universitätssammlung in Poppelsdorf zu tragen und diese damit zu bereichern. Dass dieselbe zu den werthvollsten und sehenswerthesten in Deutschland zählt, ist nicht zum geringen Theile sein Verdienst.

Vorwiegend geologischen Inhalts, doch auch mit eingestreuten werthvollen mineralogischen Notizen versehen, sind folgende Arbeiten: Geologisch-mineralogische Beobachtungen im Quellgebiet des Rheins (1862), Geognostische Mittheilungen über die Euganäsischen Berge bei Padua (1864), Der Vesuv (1871), Der Aetna (1872), Der Monzoni im südöstlichen Tirol (1875), Bericht über eine geologische Reise nach Ungarn (1876), Palästina und Libanon, geologische Reiseskizze (1881), Geologische Briefe aus Amerika (1884), Einige geologische Wahrnehmungen in Griechenland (1887).

Eine dritte Categorie von Publicationen enthält Reisebeobachtungen und Studien mehr allgemeinverständlicher Art. Hier zeigt sich erst recht des Verstorbenen Gabe, die verschiedenartigsten Gegenstände zu erfassen und mit Licht und Wärme zu behandeln. Neben der Natur zieht ihn der Menschen Leben und Treiben, Wohl und Wehe

besonders an. Die Bedrückungen unserer Stammesgenossen in Siebenbürgen und der Indianer in Arizona gehen ihm gleich nahe. Er erwärmt sich an der aufopfernden Liebe der ersten katholischen Missionare im nordamerikanischen Westen, ebenso, wie an den Thaten eines William Penn im Osten. Einige dieser Schriften sind mustergültige Reisebeschreibungen und geographische Abhandlungen. Obenan in dieser Beziehung steht vielleicht die älteste derselben: „Ein Ausflug nach Calabrien (1871) nach Reisebriefen. Zugeeignet meiner theuren Frau Marie, geb. Rose." Es folgen: „Erinnerungen aus Siebenbürgen (1875), Naturwissenschaftliche Studien, Erinnerungen an die Pariser Weltausstellung (1878), Siebenbürgen, Reisebeobachtungen und Studien (1880), Durch Italien und Griechenland nach dem heiligen Land, Reisebriefe, 2 Bde. (1882), Geographisch-geologische Blicke auf die Pacifischen Länder Nordamerikas, ein Vortrag (1885), Arizona, das alte Land der Indianer, Studien und Wahrnehmungen (1888)" und endlich „Pensylvanien, geschichtliche, naturwissenschaftliche und sociale Skizzen". Sie erschienen an seinem Sterbetage. —

Gerhard vom Rath war wohlwollend gegen Jedermann, für jede Freundlichkeit von Herzen dankbar, für alles Edle rasch erwärmt. Das schwere Schicksal in seinem Hause hatte ihn geläutert, aber nicht erbittert. Es hatte ihm früh das Haar gebleicht, aber seine Kraft nicht gebrochen. Die Arbeit war ihm Bedürfniss und Genuss. Blick, Gang und Sprache zeigten die Energie seines Geistes an. Zu umfangreichen Kenntnissen gesellte sich ein bewundernswerther Wissensdrang. Ein fester, selbstloser, nur auf das Gute gerichteter Wille, der keine Ermüdung kannte und keine Bequemlichkeit suchte, wo es galt der Wissenschaft und dem Wohle seiner Mitmenschen zu dienen, zeichneten den selten anspruchslosen und edlen Mann aus. Unentwegt vom Geiste der Zeit, sich seiner Aufgaben und Ziele klar bewusst, und im festen Glauben an eine höhere Bestimmung des Menschen ging er durch's Leben.

Er war ein frommer Mann. Die religiösen Ansichten eines so energischen, reinen und wahren Charakters konnten nicht verborgen bleiben. Er hat ihnen vielfach Ausdruck gegeben in Wort und Schrift. Dieselben waren wohl nicht ganz in Uebereinstimmung mit dem, was man gewöhnlich Orthodoxie nennt, aber fest auf die Bibel gegründet, in der er täglich las, mit der er so vertraut war, wie mit seinen Instrumenten. Er lernte aus ihr und dem Beispiel seiner Eltern ächt christliche Liebe und evangelische Freiheit; sie war ihm Grundlage seiner Weltanschauung und Richtschnur seines Lebens; sie lehrte ihn Strenge gegen sich selbst und Milde in der Beurtheilung seiner Mitmenschen.

Im Wohlthun liess Gerhard vom Rath die linke Hand nicht wissen, was die rechte that. Darum würde es nicht nach seinem Sinne sein, noch auch gelingen, wollte man den Versuch machen und die zahlreichen Beispiele seines edlen, stillen Wirkens an die Oeffentlichkeit ziehen. Anders ist es mit mehreren seiner grösseren Stiftungen, die ihrer ganzen Natur nach nicht verborgen bleiben konnten. Hierher gehören ausser der schon erwähnten Hans vom Rath'schen Stiftung am hiesigen Gymnasium noch zwei, das sogenannte Knabenheim in Bonn und das „Arbeiterheim Wilhelmsruhe“ bei Köln. Mit ersterem bezweckte er in Ermangelung eigener Kinder einer beschränkten Zahl Söhne gebildeter, unbemittelter Wittwen eine gute Erziehung zu bieten. Auch hier gab er nicht blos Geld, sondern sein Herz für die gute Sache; denn er wollte der Jungen Vater, Helfer und Berather sein. Denselben zu erzählen und Gottes Werke in der Natur vor Augen zu führen, war ihm, dem wahren Jugendfreunde, Erholung und Genuss.

Nach dem Tode seiner Mutter, an der er mit so viel Liebe und kindlicher Verehrung hing, fiel ihm ein beträchtliches Vermögen zu. Das änderte seine gewohnte, bescheidene Lebensweise nach keiner Richtung. Damals

schrieb er: „Für mich beginnt, nachdem die Augen der Mutter sich geschlossen, ein neuer, der letzte Lebensabschnitt.“ Wie er, der sich nur als Verwalter des elterlichen Erbtheils ansah, seine Aufgabe in diesem, leider nur zu kurzen Lebensabschnitt auffasste, zeigt uns jene hochherzige Gabe zur Gründung des „Arbeiterheim Wilhelmsruhe“. Dem Wohle der Arbeiter in den rheinischen Zuckerfabriken wird es nach dem Willen seines Stifters dienen und zugleich durch den Namen an die Fürsorge unseres unvergesslichen Kaisers für die Arbeiter erinnern. Es ist somit das erste Denkmal, welches Patriotismus und Nächstenliebe dem Andenken Kaiser Wilhelms auf rheinischem Boden errichtet hat.

Am 20. August 1860 schrieb Gerhard vom Rath an seine Gemahlin Marie aus der Schweiz: „Gestern hatte ich also mein 30. Lebensjahr vollendet. In früheren Jahren gedrückt durch eine häufige jugendliche Schwermuth, glaubte ich 30 Jahre nicht zu erreichen. Nun mir dies doch vergönnt wurde, so möge mir eine gnädige Vorsehung gewähren, dass ich erst zur Hälfte meinen Lebensweg durchlaufen. Noch ist es kein Jahrzehnt, dass ich angefangen habe selbständig zu arbeiten, noch nicht ein halbes, dass ich als Lehrer wirke. Wenn ich nun beides noch 30 Jahre fortsetzen könnte, so möchte ich hoffen, zum Gemeinwohl und zum Fortschritte der Wissenschaft nach Kräften beigetragen zu haben.“

Dieser Wunsch ist, wie wir gesehen haben, bezüglich der Lebensdauer annähernd und hinsichtlich der Leistungen weit über Erwarten erfüllt worden. Sein Tagewerk ist beendet. Hat er sich durch dasselbe in der Wissenschaft und in seiner heimathlichen Provinz unvergängliche Denkmäler gesetzt, so nicht minder in vieler Herzen, auch unter uns. Sein Andenken bleibet in Segen.

J. Rein.

UNIVERSITÄTS-BUCHDRUCKEREI VON CARL GEORGI IN BONN.

Biogr

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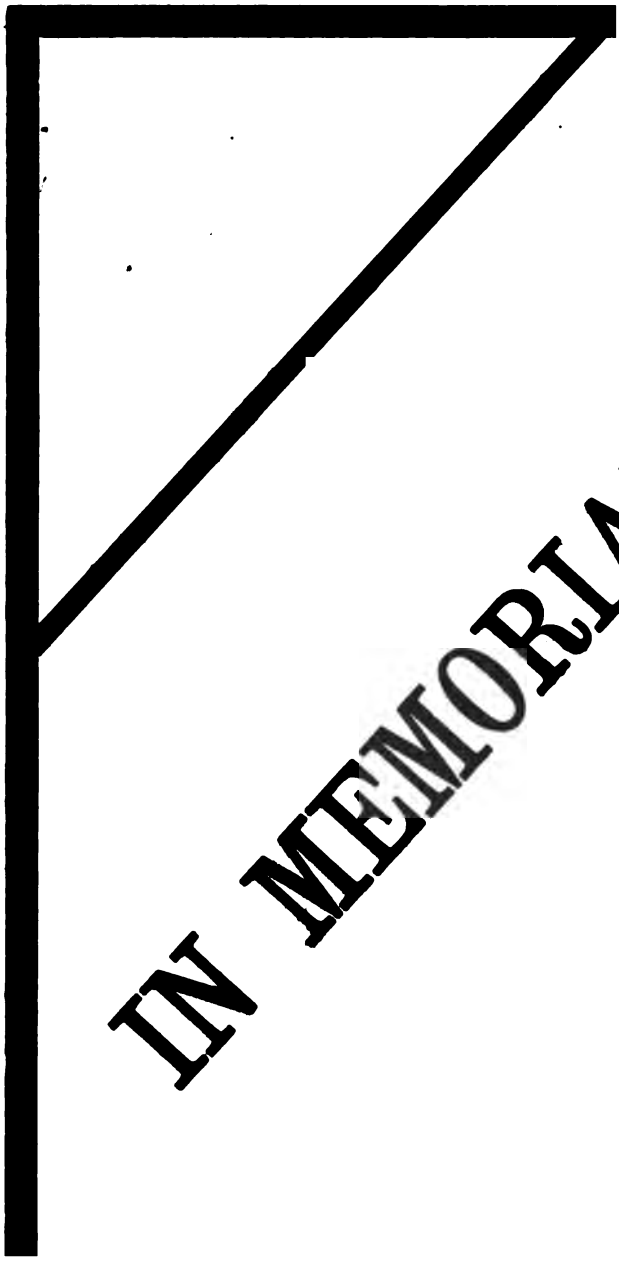


Memorial Addresses

Delivered at

Winchester, October 25, 1882,

Before the

Grand Lodge of Ky., I.O.O.F.

Upon the Deaths of

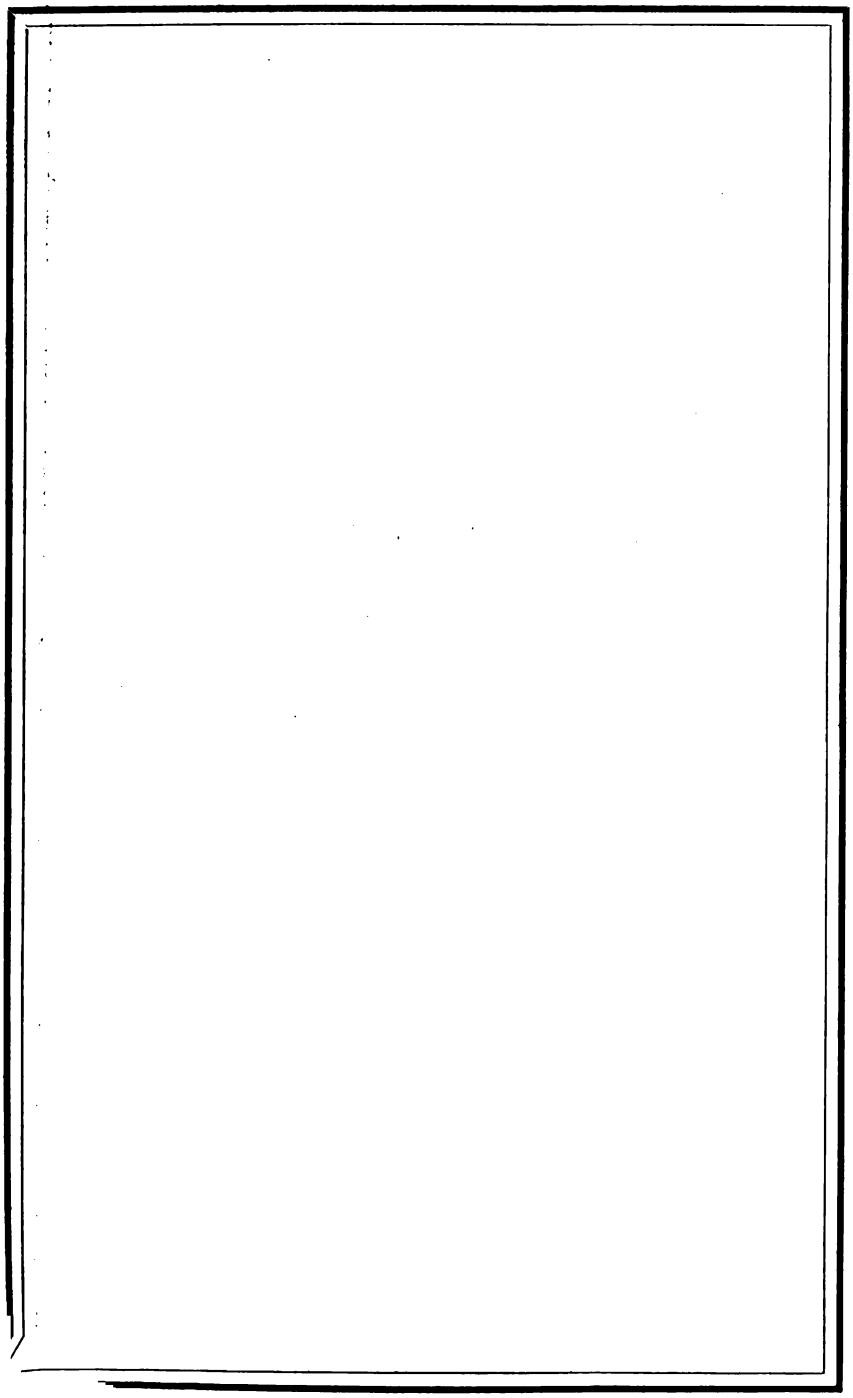
James L. Ridgely, Wm. M. Cunny,

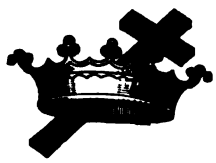
Maliaferro P. Shaffner,

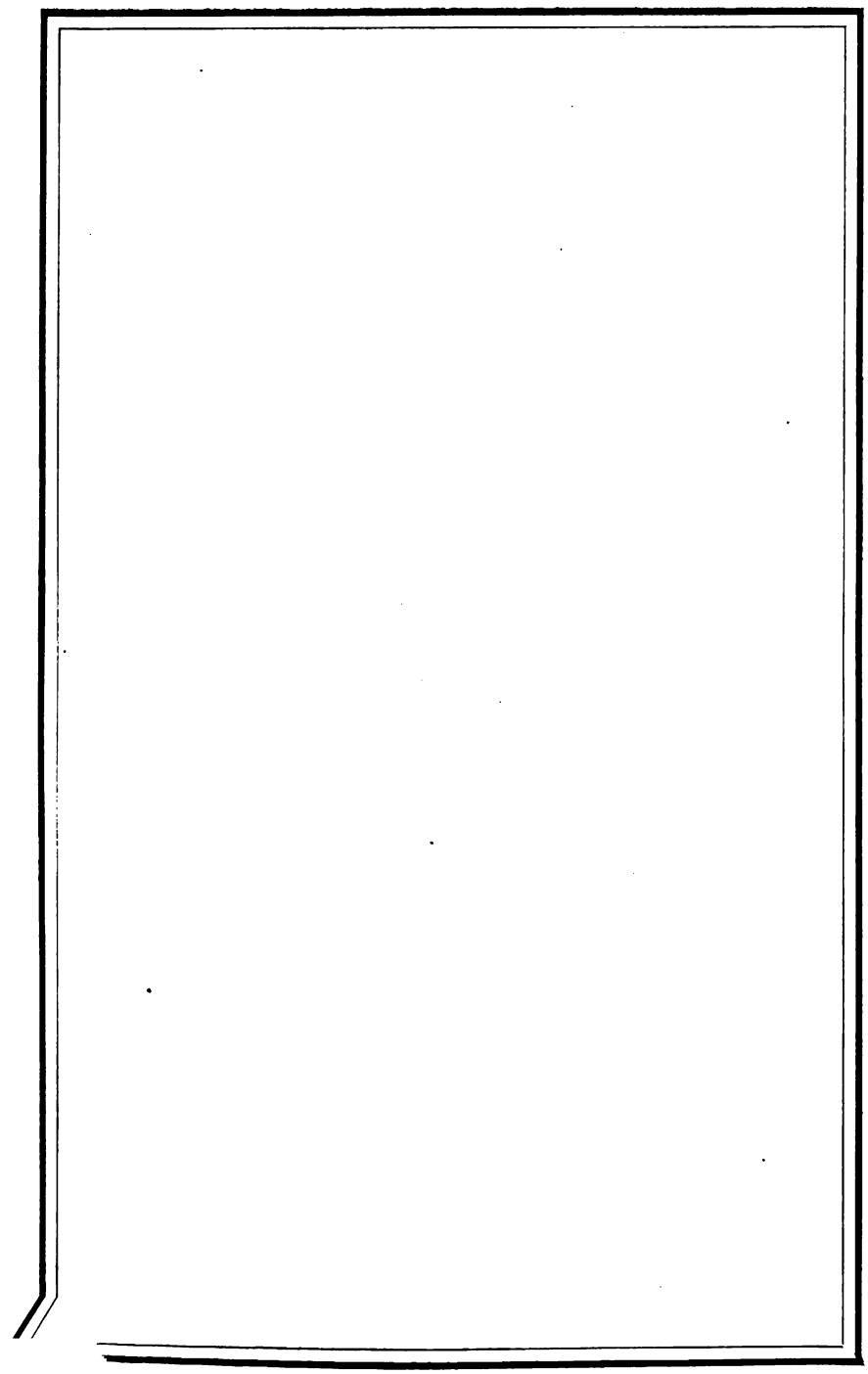
Together with the

Resolutions adopted by the Grand Lodge and the Reports of the Committee on Demises.

LOUISVILLE.
ROGERS & TULEY, PRINTERS AND STATIONERS.
1882.







AN ADDRESS UPON THE LIFE AND CHARACTER OF JAMES L. RIDGELY, DELIVERED AT WINCHESTER, KY., OCTOBER 25, 1882, DURING THE SESSION OF THE GRAND LODGE OF KENTUCKY, BY PAST GRAND SIRE M. J. DURHAM.

IN MEMORIAM.

JAMES LOTT RIDGELY,

Grand Secretary Sovereign Grand Lodge, I. O. O. F.

DIED NOVEMBER 16, 1881.

LADIES, GENTLEMEN, AND BROTHERS:—A great man among Odd Fellows has fallen. In respect to his memory memorial services, resolutions of condolence, eulogies upon his life and character have been had in cities and towns, in the valleys and on the mountain tops, and from the Atlantic to the Pacific lodge rooms have been draped with the emblems of mourning, and throughout the wide domain of Odd Fellowship there has been universal grief and sorrow over the death of James L. Ridgely. While other grand bodies have placed on record their estimate of him, it is befitting that we should say something of his life, labors, and character. To me has been assigned that duty.

There is in every human bosom a resistless instinct, a constant longing to testify in some manner its yearning for the loved and the lost. The fading wreath which affection's hand has entwined about the tomb of humble poverty, and the mausoleum, with its chiseled

columns—and all the pomp with which grandeur mourns over departed pride, alike remind us of this mournful duty to the dead. Among all civilized people in all times past it has been a beautiful custom to mingle with laments for the dead eulogies upon their well-spent lives. The Greek elegy, the resounding prose of the Roman orator, the beautiful and incisive phrase of the French Academy, and the lofty, poetic verse of Milton and Tennyson have been alike in the one great purpose of teaching the lesson that the highest life is that which is lived for others. The public servant has his reward—that as the tendency of his labors and toils is to take him away from himself and set before him the public good as his highest aim, so the popular heart is willing to overlook his faults and errors and remember only that he was one who has striven to serve his fellow man. It is a charitable sentiment that no one should speak ill of the dead, that their errors, faults, and frailties, whatever they may have been, should be covered by the mantle of oblivion; but it does not follow that their virtues, their noble deeds and valuable services to mankind should remain unrecorded; these should be perpetuated so that their light, which once shone and illumined the pathway of thousands, should not go out in eternal darkness. It is the duty of the living to perpetuate the memory of the great and good, those who have filled high positions with credit to themselves and their country, and who, by their talents, genius, and labor have rendered valuable services to mankind. What is a country without a biography of its distinguished men and its public benefactions? What a blank would be the history of ancient empires and kingdoms if there had been no special mention of their philosophers, poets, heroes, orators, and statesmen. It would have been a shadow without substance, a skeleton divested of its vital, essential parts—life and beauty.

The character of a nation and the criterion of its civilization may be judged by the intelligence, honesty, and purity of those who are appointed its rulers. It is our boast to rejoice in the emi-

nent qualities of the founders of our Republic and those who gave it form and direction in its infancy. While the spirit of freedom pervades the minds of the American people they can not cease to venerate the champions of our independence. The names of Washington, Adams, Franklin, Hamilton, Jefferson, Jay, and Marshall will be handed down from generation to generation, and mentioned with praise as long as free institutions exist on the earth. Those names will be transmitted to posterity as synonymns of great ideas—liberty and self-government. As in nations, so it is with those great institutions which have been organized to ameliorate the condition of mankind; they are judged to a great extent by those who lay deep and broad their foundations and are prominent in their up-building and management, and when these die, their deeds, their characters, their good words and works should be handed down to posterity in letters of living light. Whenever the living cease to remember their dead—a death greater than the mere decay of the human body will sooner or later erase such a people from the map of the world. History, with its great iron pen, will in few words detail their rise, fall, and decay. No one ever dies all forgotten, and no one ever wholly perishes from the face of the earth. The influences of a life even in this world are eternal. The tomb can not enclose them; they escape from its portals and continue to pervade the daily walks of men, like unseen spirits guiding and controlling human thought and action. Who is free from their touch? Whose life and destiny have not been colored, formed, and fashioned by the influences of those who have passed away? The greatest actors on the broad stage of human affairs have pointed back from the loftiest points of their elevation to the mother with her prayers, to the father with his toil and devotion, to unselfish kindred, self-sacrificing friends, and bowed with reverence before the living power associated forever with their names and memories. Every mind and heart reproduces some of its achievements and many of its qualities in the minds and hearts of

others after it has gone to far off spheres and realms. And this is the average of human influence—the silent but mighty stream of causes—producing effect on which mankind from its birth has been borne gradually and steadily forward in its vast career of progress and development. Now and then, however, the current of this stream receives a new and startling velocity. Some intellectual force towering over all others of its period occasionally imparts to all the world at once an impetus which condenses the ordinary advancements of years into the thrilling compass of a day. Then not only individuals, but nations, institutions, and generations become the subjects of an irresistable and everlasting influence; a new era is then noted on the pages of the historian, and new gateways are opened for the onward movements of human amelioration. Such an event occurred in Odd Fellowship in the life and labors of James L. Ridgely.

He was born in the city of Baltimore, January 27, 1807. He received a liberal education and graduated with honor at Mount St. Mary's College at Emmetsburg. He studied law and practiced his profession in Baltimore with success—having the confidence of the bench and bar—and discharged ably and faithfully all his duties to his clients. He was initiated as a member of Columbia Lodge No. 3 on the 27th day of May, 1829, and in the next year he appeared as a Past Grand in the Grand Lodge of Maryland. He at once took a high position in that lodge. In 1831 he took his seat in the Grand Lodge of the United States as a representative from the jurisdiction of Maryland. In 1833 he was elected Grand Master of the Grand Lodge of that State. In this position he was faithful and efficient, and did much to increase the membership during his term. In the Grand Lodge of the United States he was placed on some of the most important committees, among them was that which was charged with the duty of revising the ritual, charges, and lectures of the Order. His fine literary attainments, his great love for our Institution, and his thorough knowledge of the grand

principles upon which it rests eminently qualified him for this difficult task. He was the author of the Past Grand's charge—a composition not excelled in the English language—a production which will be read and re-read, loved, used, and admired as long as Odd Fellowship may exist. In 1836 he was elected Grand Sire, but he refused to accept that exalted position. In 1840 he was elected Grand Secretary of the Grand Lodge of the United States, to fill out the remainder of a term, and in the same year he was again elected Grand Sire, but declined to accept. No instance like this can be found in the history of the Order. One competent to fill this high position, a place coveted, sought after, and desired by his most eminent associates, yet he declines because he can do more to up-build, improve, and beautify this Institution in an humbler sphere. His love of the principles of the Order, his de-desire to reform its workings, to make it a living, grand, powerful Institution out-weighed his ambition for place and power. In 1841 he was re-elected Grand Secretary, and was successively elected to the same office until in 1881, when he died.

It was in this office he exhibited his wonderful executive ability and his great powers as a writer; it was here he brought order out of chaos; it was here he wrought out those reforms so necessary to the very existence of this Institution. Although holding this subordinate position he was really the head—the grand motive power which moved the whole Order. Grand Sires sought and accepted his counsel and advice, and should new questions arise or doubt exist as to the old ones his decision was accepted as the true interpretation of the same. By the force of his great abilities and his courteous demeanor he won the confidence and admiration of the membership everywhere. He was a fine speaker, yet sometimes so poetic were his tastes that his speeches were somewhat weakened by a disposition to clothe the coldest logic in flowing, if not in measured terms. His mastery of language being great, his ready tongue was apt to pander to his tuneful ear and pour out

mellow sentences as pleasing in sound as they were sound in logic. His gestures, too, were graceful and in perfect harmony with the euphony of his tones. He was remarkable for the simplicity of his nature as for the breadth of his mind and for the acumen of his intellect. Those who analyze the nature and charm of simplicity in a great mind surprise themselves to find the secret of both in the fact that simplicity allied with greatness works its marvel with a sweet unconciousness of its own superior excellence, and it works them out with this unconciousness because it is greater than it knows. "Talent does what it can; genius does what it must," and in this respect there is a great analogy between the highest goodness and the highest genius, for under the influence of either the spirit of man may scatter light and splendor around it without admiring itself or seeking the admiration of others. And it was in this sense that the simplicity of Ridgely's nature expressed itself in acts of goodness—and acts of high intelligence—with a spontaniety which hid from himself the transcendent virtue and dignity of the work he was doing, and hence all of his work was done without the slightest taint of vanity or tarnish of self-complacency. A sense of rectitude presided over all his thoughts and acts. He had so trained his mind to right thinking, and his will to right feeling and right doing, that this absolute rectitude became a part of his intellectual as well as his moral nature. He sat at the feet of Nature with as much of candor as of humility, never imparting into his observations the pride of opinion, and never yielding to the seductions of an overweening fancy. He was sober and discreet in his judgments. He made no hasty generalization on any subject. His mind seemed to turn on the "poles of truth." The *truth* was his guiding star in all his investigations. He sought it by the plainest methods that earnest inquiry and thorough research could discover. His sources of learning supplied him with rich stores of classical illustrations which were used to both embellish and to intensify his logic. Deeply impressed with the truth of his own convictions he

supported them with an earnestness born of sincerity, with a fullness of information due to his habit of industry and with a power that sprung from large natural ability disciplined by severe training; but he supported them only in a fair and manly way. The solid logic of his arguments, couched in beautiful language and in his array of facts, were intensified in their effect by the clearness of his statement and the strength of his presentation.

Pausing here a moment at this stage in the analysis of Brother Ridgely's mental and moral traits I can not omit to say something of the effect produced on the observer by the happy combination under which these traits were so grouped and confederated in his person as to be mutual compliments to each other. He was courtly in his manners, but a courtliness which sprang from courtesy of heart, and had no taint of affectation or artificiality; he was fastidious in his literary tastes, but he had none of that dilettanteism which is "firmly defective and delicately weak;" he was imbued with simplicity of heart which left him absolutely without guile, yet he was shrewd to protect himself against the arts of the designing; he was severe in his sense of honor, without being sensorious; benevolent, yet inflexibly just; quick in his opinions, yet calm in judgment and patient in labor; tenacious of right, without being controversial; benignant of his moral opinions, yet never sullying the truth; endowed with a strong imagination, yet always making it the handmaid of reason; a prince among men, yet without the slightest alloy of arrogance in the fine gold of his improved intellect; in a word, "good in all his greatness, he was at the same time great in all his goodness." Among all those bright names that have been and are now identified with this Order none shines more brilliantly on the pages of its history than does his; no one has accomplished as much in working out the ends of benevolence and human amelioration, as exemplified and illustrated in the principles of American Odd Fellowship, as our lamented brother. 'Tis true that Wildey, Welch, Mathiot, Marley, and others laid

broad and deep the foundation of this temple of benevolence and human benefaction, but it remained for Ridgely to rear the superstructure and ornate and beautify it with architectural grace and loveliness. And what were the results of his labors?

When he entered the Grand Lodge of the United States in 1831 it numbered only eleven jurisdictions, sixty-nine subordinate lodges, and forty-four hundred and fifty members. He lived to see it embrace fifty-nine Grand Lodges, thirty-nine Grand Encampments, seven thousand and forty-eight subordinate lodges, eighteen hundred and twenty-one subordinate encampments, with more than a half million of members, and a revenue received by these lodges of over four million of dollars! What a grand and sublime spectacle this must have been to him! He lived to see it the great moral and social prodigy of the nineteeth century, with no parallel for its growth and development. Its influence had swept across the Atlantic seaboard, and lingering through the vastness of the older States, trembling on the bosom of the great lakes and along our magnificent rivers, swelled in majestic grandeur across the hesperian plains, and calling out from snowy peak to the vernal occident blended at last with the roar of the surf which beats forever on the shores of the great Pacific!

I knew him well and intimately. I have seen him under almost all circumstances—in his office, in the Grand Lodge room, in the family circle; he had the same powers of magnetism everywhere. Whereever the Grand Lodge met, in California, in Atlanta, Philadelphia, Chicago, Ridgely was the magnet around which the whole brotherhood centered. He was the most universally popular man I ever knew. Loving in his nature, his heart yearned to love. His heart was as soft and gentle as a woman's, yet his was a manly nature. Clear in his conceptions, he was steadfast in his opinions. He despised a hypocrite and hated a sham. Brave and manly, yet a cry of distress brought tears to his eyes; stern and decisive in his opinions, yet a friend's distress melted him and a woman's wail com-

manded him. His life was characterized by purity, simplicity, and benevolence—a purity without a spot, a simplicity which was transparency itself, a benevolence as wide as the spread of our Order and limitless as human want. You who knew him and knew him well can bear cheerful witness to my words. He was as simple as a child—without dissimulation, without guile. He was not smart as some men count smartness—neither have been many of the great spirits of the times. His mind was the crystal depths of a great, pure lake, not the noisy course of a shallow, frothy river. He was a pure man. Pure he was laid to rest without a spot. The product of nearly four score years in this rough world, we lift up his character to-day and say, behold it! the freshness of purity, the stainlessness of childhood are yet upon it. "Grand, is it not, consoling, is it not, that God now and then builds up a man among us of whom we can say, look upon him, walk round about him—you will find no ugly scar, you will find no deformity in him? Grand is it not, consoling, is it not, that now and then in this world of smirched reputations and diseased lives God gives us a whole man—a man whom without a blush we can lift up to the great Master saying, take him again, he is unharmed, he is worthy of Thee?" Methinks even as human hands after his funeral selected from all the floral offerings some few choice ones which they may embalm and preserve so will angel hands, after that the earth has paid its last honors to him, culling over all the offerings which have been laid upon his tomb, select this simple token and hang it high upon heaven's wall—James L. Ridgely, *The Philanthropist.* The influence of this man has taken to itself the wings of the morning and visited the uttermost parts of the earth. It dwells wherever Odd Fellowship exists, shapes and controls its future destiny. Brother Ridgely in one sense is dead; his body, after the labors of a long life, has laid down to rest and to sleep until the great Master shall awaken it again. But even in this world his life has but just begun. As his pure soul enters upon its new

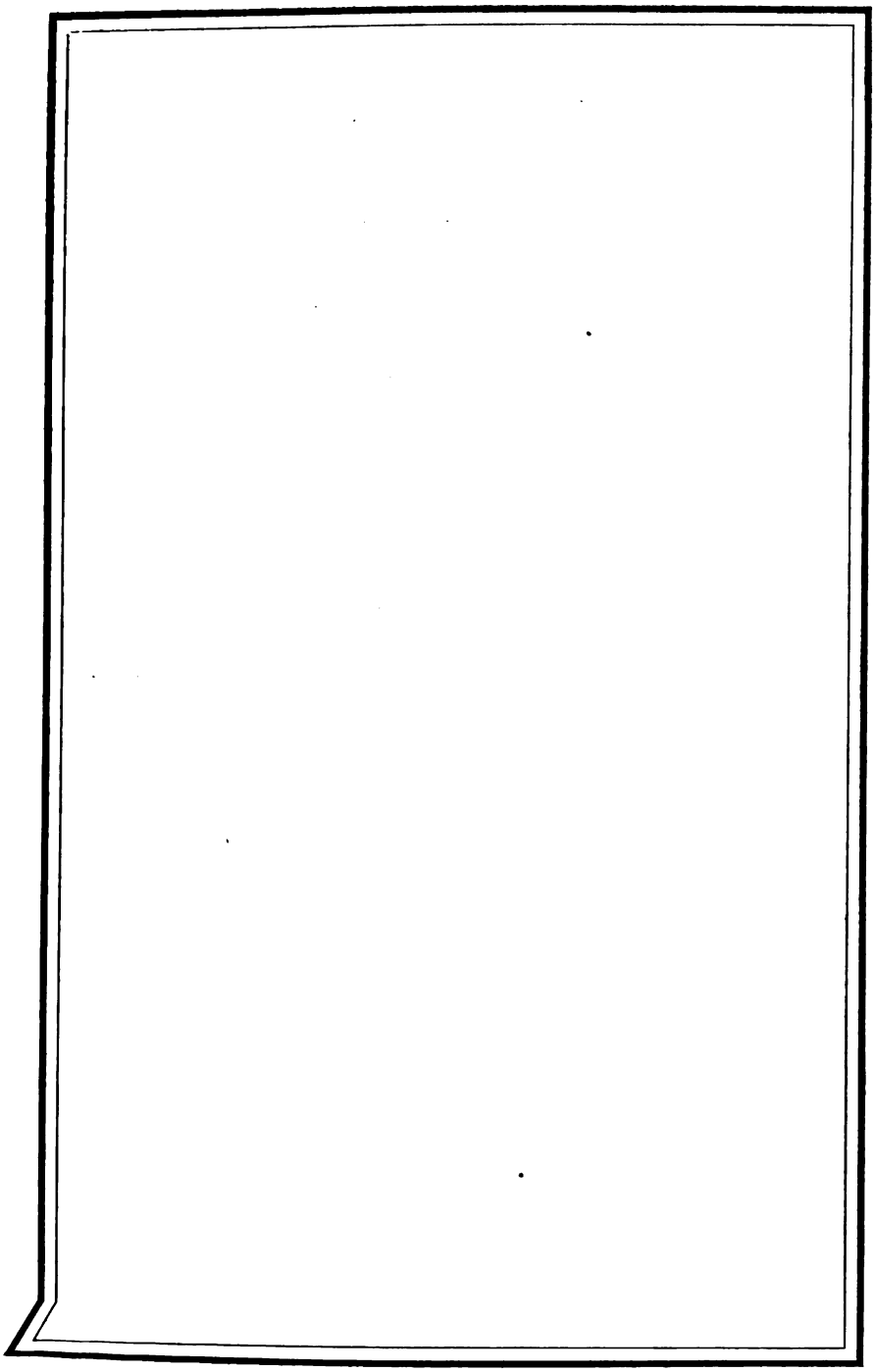
career in the regions of immortality, so does the influence which he left behind him here move forward each day to new developments of glory and power in our Order.

We are here to-day performing these duties because he lives in his works and because his undying example still sways and governs our conduct. A half million of brothers bow reverently at his tomb, and thousands upon thousands of widows and orphans are his mourners because of his great labor of love in their behalf. Memorial services can not reach him; he is beyond the sound of praise or the fragrance of its incense. No, we only perform our duty on this occasion by simply recognizing the great good he has wrought out for mankind, attesting his immortality here on earth. Calmly he sleeps beneath the soil of his native State, within the sound of the great city which gave birth to our beloved Order, and which gave him a home and a grave, and with its half million of eager population ever stand night and day as a vigilant sentinel over the tomb of its honored dead. Embowered in the peaceful shades of his own beautiful resting place, through whose stricken boughs the fierce wintry winds chant their requiem, our brother—the father—the husband—the friend—sleeps that sleep that knows no earthly waking. Wreaths will fade and wither on his tomb, perennial flowers will blossom and decay, time will raze the well-rounded mound where he sleeps, monuments will rust and granite crumble, but his deeds are enduring and his name imperishable. But we shall see him again—yes, in a land that is fairer than day—in the full possession and active exercise of those mental powers which have won the admiration and gratitude of his fellow men shall we see him—see him as along the pathway of an unending progress and amid the ever-rising, ever-thickening glories of the universe he makes his way upward into the infinite goal of Friendship, Love and Truth.

The sublime creation of God, which we have known as James L. Ridgely, is endowed with the power of an endless life.

"Eternal form shall still divide
The eternal soul from all beside,
And we shall know him when we meet."

Remembering his career as a man of great labor, as a man who served this Order with singular ability and faithfulness, who was loved and venerated by every circle, who blessed with his friendship the worthiest and the best, whose life added new glory to the human race, "we shall be most fortunate if ever in the future we see his like again." Sometimes we think when a great leader in his department dies the progress of the institution with which he was connected will be retarded or blotted out of existence. Not so if it is founded in truth and right. Presidents and the leading spirits of our country may die, yet the government lives and moves on in its sure progress to greatness. Bishops, prelates and clergymen may die, yet the church lives to be the light and hope of the world. Ridgely, Shaffner and Curry may pass from our midst, yet others rise up to fill their places—while the principles they taught and practiced will never die. My brothers, I then beseech you to imitate their noble examples, cherish and guard well the principles they have vouchsafed to us. When we, and those who shall come after us, shall have discharged our whole duty to ourselves, to mankind and this Order, and when the voice of the angels shall be heard upon the mighty waters when the last note of time shall hoarsely sound from the tomb of immutable ages, and the requiem of the world swells upward and reverberates through boundless space with all created good shall moral virtue as a child of the skies be separated from the ruins of sin and gathered home to the presence of God, when sculptured monuments shall be no more, when honor's gaudy plume shall wither and decay, when magnificent temples shall crumble to the earth, the successful triumphs of Odd Fellowship shall flourish in immortal youth and shine forever on the burnished altars of heaven!



MEMORIAL ADDRESS DELIVERED BEFORE THE GRAND LODGE OF KENTUCKY, I. O. O. F., AT WINCHESTER, BY PAST GRAND PATRIARCH A. H. RANSOM.

IN MEMORIAM.

WILLIAM T. CURRY,

DIED DECEMBER 21, 1882.

MEMBER OF

MONTGOMERY LODGE No. 18,

SHAFFNER ENCAMPMENT No. 10.

Past Grand Master of the Grand Lodge of Kentucky; Past Grand Patriarch of the Grand Encampment of Kentucky; Past Grand Representative to the Sovereign Grand Lodge of the I. O. O. F.

GRAND MASTER AND BRETHREN OF THE GRAND LODGE:—The duty that has been assigned me of preparing a memorial address on the life and character of our lamented brother, William T. Curry, who died since the last annual communication of this Grand Body, fills my heart with sadness, and yet there is an indescribable pleasure in bearing loving testimony to the worth of one who was so highly esteemed by his brethren, one who proved himself worthy of the purest love and strictest confidence, one to whom I felt

myself bound by the ties of strong friendship, even such as existed between Jonathan and David. The fear that perhaps my implicit confidence in and high regard for him might prompt expressions which by some would be deemed flattery, and the apprehension that in seeking to avoid such error I might fail to do even adequate justice to excellencies which by all were known to have been his, caused me to wish and to express the hope that among his numerous friends some one might have been chosen who would in more fitting words than I can utter have paid a tribute to our friend's memory, but having been called upon by the Grand Lodge and the Grand Encampment to perform this duty, there is nothing left for me but to comply.

My acquaintance with Brother Curry dates from my first attendance at this Grand Lodge in 1859, three years after he became a member, and that acquaintance soon ripened into a friendship which endured until his death. For more than twenty years had I the pleasure of knowing him intimately; and knowing him thus, I feel sure that no labored epitaph, no prosy memorial, no fulsome eulogy is needed to impress his worth and virtues upon the minds of those who were numbered among his acquaintances, and I apprehend that a mere recital of some of the leading incidents in his life-history will be sufficient to show to every one that in all the relations of life and elements of manhood, as a friend and neighbor, as a husband and father, as an Odd Fellow, and as a Christian he was in every particular of conduct without fear and without reproach; that in all his relations to and intercourse with his fellowmen he proved himself that noblest work of God—an honest man. Naturally of warm impulses and generous disposition, his life and actions were tempered by a conscientious regard for right and for moral law. Modest in all his good and benevolent actions, he ever avoided any thing like a public exhibition of them, and they were seldom well known except to the recipients and to Him who seeth all things. In the great day of account when the question is asked,

"When saw we thee an hungered and fed thee, or when saw we thee athirst and gave thee drink, or when saw we thee naked and clothed thee, or when saw we thee sick and in prison and ministered unto thee?" methinks the blessed One will smile more sweetly than is His wont, and that His voice will be kinder and gentler than usual when He shall say to our brother, "Inasmuch as ye did it unto the least of these, my brethren, ye did it unto Me."

Brother William T. Curry was born in the city of Harrodsburg, Ky., January 6, 1823. There he passed his youth; there on arriving at the proper age he engaged in business; there he was married; there he lived his entire life; and when his labor on earth was ended there, on the 21st of April, 1882, he died at the age of 59 years, and there in the beautiful cemetery adjoining his native city he was buried. It was in the early spring, when the opening flowers in their eagerness to burst the bonds which held them captive during the long months of winter seemed to indicate the happy release of our brother from his earthly bonds; when the clear and cloudless sky opened as it were to the vision of the bereaved ones the limitless route from time to eternity; when the king of day as he pursues his majestic course through the heavens, causing the heart of man to rejoice at the ushering in of the advent of another seed-time and harvest, reminded them of the advent of our brother into the better world beyond the grave; when the exultant carols of the feathered songsters on the return to their haunts of former years were symbolic of the songs which greeted our brother on his entry into the home of the blessed; when all nature seemed to have put on her richest garniture and to be singing the song of resurrection and immortality, emblematic of the future of our departed brother. It was at this time, when the season and all nature were expressive of our hope that with our brother all was well, that in the presence of a large assemblage of his brethren of the mystic tie from his own and the neighboring lodges, and also of numbers of his friends and neighbors who had assembled to testify their appre-

ciation of the worth of one who had always lived among them and who was known and loved by them, that the last offices which the living can render to the dead were performed by Past Grand Sire Durham in accordance with the ritual of our Order, and our brother's worn out garment, the tenantless body, was laid in the grave—earth to earth, ashes to ashes, dust to dust—there to rest until the great day of resurrection when at the sound of the last trump all shall be assembled before the judgment seat to give account of the deeds done in the body, whether they be good or whether they be evil. And it seems but fitting that these Grand Bodies should express to his family the high appreciation of his brethren in Odd Fellowship of the manly and useful life of him whom they have lost and we deplore, and that his last eulogy should be pronounced now in this peaceful autumn time when the season seems naturally symbolic of his well-spent career, ripening through nearly three score years until reaped and gathered into the garner of the Grand Master of the universe.

In February, 1842, at the early age of 19, Brother Curry united with the Presbyterian Church, of which during his entire life he was a consistent member, and in which he served as deacon and treasurer for many years.

On July 20, 1847, when 24 years old, he was united in marriage to her who now survives him, and who mourns the loss of him whose love was of her very life a part. He had five children, four sons and one daughter, all of whom survive him to mourn his loss and revere his memory. It was in the relation of husband and father that his character shone with its brightest luster. Through all the various changes of life, whether cheered by the smiles of prosperity or depressed by the clouds of adversity, whether in the full enjoyment of bodily health or suffering from the wasting of sickness and disease, at all times and under all circumstances he was ever the same—faithful, constant, tender, and devoted to the *choice of his youth*. His naturally warm heart and generous dis-

position—disciplined and regulated by the principles and precepts of Odd Fellowship, chastened and strengthened by the practice of those duties to his brethren in distress consequent upon his membership in the lodge, elevated and spiritualized by the religion which he embraced in his youth and which during his whole life was not merely a form and profession, but an active principle and his daily guide, controlling his actions and conduct—united with and assisted by the gentle influences, wise discrimination and loving co-operation of her who was in all respects worthy to be the life-partner of such a man, were well calculated to make his married life what it was beyond question, one of continued and unalloyed happiness, his home the haven of joy and comfort, and his house the mansion of peace and content. Such a home seems almost too sacred to be spoken of in public on any occasion, but I feel that otherwise justice could not be done our brother. Even as I could not comprehend in all its fullness the happiness of that home until I had been a recipient of its cordial and generous hospitality—an occasion highly appreciated at the time and on which memory fondly lingers as one of the most delightful episodes of my own life—it was not strange that they were looked upon as being specially favored by Providence or that their names were considered synonyms of domestic peace and happiness. And it was to be expected that the children of such parents, nurtured and reared under the ennobling and happy influences of such a home, should have the loving characteristics of both their parents, and become, as we find is the case, worthy descendants of so noble a sire, ready and prepared to do their duty in the battle of life, valuable additions to society and worthy recipients of the good name left to them—a rich legacy by one of whom we may well say: "Blessed are the dead who die in the Lord, for they rest from their labors and their works do follow them."

As an Odd Fellow, Brother Curry was one of whom the jurisdiction of Kentucky may well be proud, and whose example we all

might follow with credit to ourselves and benefit to the Order. Initiated in Montgomery Lodge No. 18, at Harrodsburg, Ky., but six months after its institution, when he was twenty-two years of age, the teachings of our Order found in him a willing adherent and a hearty supporter. It was not enough for him that his name was simply enrolled as a member, or that he merely paid his dues and left to others the labor and responsibility of performing the work of the lodge. He at once took the degrees, passed through the subordinate offices, and on the first of July, 1847, was installed Noble Grand, and so constant and faithful was his attendance at the lodge that he was absent from his station but once during his official term. Nor did his efforts cease upon receiving the highest honors that could be conferred in the lodge, as is too often the case, but desirous of promoting its interests he accepted the office of Secretary, which responsible position he held for many years. He was for a long time District Deputy Grand Master, and the duties of that office were faithfully performed by him to the satisfaction of all concerned, to the benefit of the lodge and to the prosperity of the Order. In the practical exemplification of the teachings of our Order Brother Curry was pre-eminent. The command of our laws—to visit the sick, relieve the distressed, bury the dead, and educate the orphan found in him a ready response and a cheerful obedience; no labor was too arduous, no call too untimely, no trouble too exactory, and no distance too great to deter him from responding to the calls of duty in that direction. Whenever there was any want to relieve, any sorrow to assuage, any misery to ameliorate, or any tears to dry, there he could be found ready to soothe the anguish of those in trouble, to raise the drooping spirits of the disconsolate, and to pour balm and consolation into the ear of the afflicted. When the attempt was made in this jurisdiction to establish a home for the widows and an institution for the education of the orphans of deceased Odd Fellows he was one of the foremost in advocating its claims, and secured material support for its

erection and maintenance, not only from his own means and those of his lodge, but from the citizens in the community where he lived. Whilst fully carrying out the duties enjoined by the Order in these respects he also recognized that in addition to relieving the necessities of our brethren in distress the principles of the Order point to higher duties and aims in life, and in his association with his brethren in the lodge he endeavored by practice as well as by precept to show that fraternity is the corner stone upon which the whole superstructure of Odd Fellowship is based, and that one of the great lessons taught by our ritual is "The fatherhood of God and the brotherhood of man;" while in his intercourse with the world at large he illustrated the great truth ever present in our lessons: "Whatsoever ye would others should do unto you, do ye even so unto them." That his labor and attention in the lodge were promotive of benefit is shown by the interest that was always manifested in its meetings and the ever prompt and constant attention of the members; and that his life and conduct had its influence on those not affiliated with the Order is evident from the interest in its welfare manifested by the whole community, the desire expressed by those eligible to membership to become enlisted under its banner, and the fact that appeals for admission into the lodge were made and granted until nearly all had been received therein. I remember that upon one occasion, when at the lodge in company with the Grand Officers, that a desire was expressed to witness the rendition of the work by Montgomery Lodge, and answer was given that every desirable and available man in the place was already a member of the lodge, but that as some young men living there had expressed their determination to join the lodge on arriving at the required age, if a visitation were made at that time the wish could be gratified.

Not only in his own lodge was our brother's influence felt and appreciated, but all over the jurisdiction were his efforts productive of good to the Order. For many years his business called him to different parts of the state, and wherever he might be—if there was

a lodge in that location—there he was to be found encouraging the brethren by his presence, instructing them in the work, counseling as to their duties, obligations, and privileges as members of the lodge, and interesting them by his remarks on the "good of the Order."

His membership in Shaffner Encampment No. 10, at Harrodsburg, was a counterpart of that in the lodge—rapidly passing from the initiatory to the highest rank in the encampment. Ever faithful and constant and always laboring with well-directed zeal for the good of the Order and the welfare of his brethren, the result was that the encampment rose to the front rank and was looked to as a model for others in the jurisdiction; and it was a well-merited token of approval when its generous and noble-hearted namesake, in recognition of the high regard in which the encampment was held by him in common with his brethren, presented a beautiful silver service, which has ever been preserved by them with zealous care and still forms a prominent feature in the ornamentation of their encampment-room.

In July, 1856, he became a member of the Grand Lodge of Kentucky, and the same year he entered the Grand Encampment. In both these bodies he manifested the same zeal and labored with the same earnestness that had characterized him in the subordinate bodies, and the records of those Grand Bodies teem with evidence of his work therein. He was present at every session, with the exception of one year, from the time of his entry until the year 1880, when he was prevented from attending by the sickness which after eighteen months of intense suffering terminated his life.

Of all his colleagues in the Grand Lodge in 1856 but very few are members of the Grand Lodge at this present session. Past Grand Sire Durham, Grand Treasurer Morris, Grand Secretary White, and Grand Guardian Hinkle are nearly all that are left—some having completed their labors on earth have been called to

their rest and reward; some have removed to other fields of labor; others have given place to younger and more active members, while others still having become weary of well-doing have ceased working in our labor of love.

In the long list of our illustrious dead, among those who in the many years past have been called from our midst, there are few if any whose names will be cherished by the survivors with more affection, whose kindly and cheerful presence will be more severely missed, whose loss will be more deeply felt, whose labor was more valuable, or whose counsels were more heeded than those of our lamented brother, both in the Grand Lodge and in the Grand Encampment.

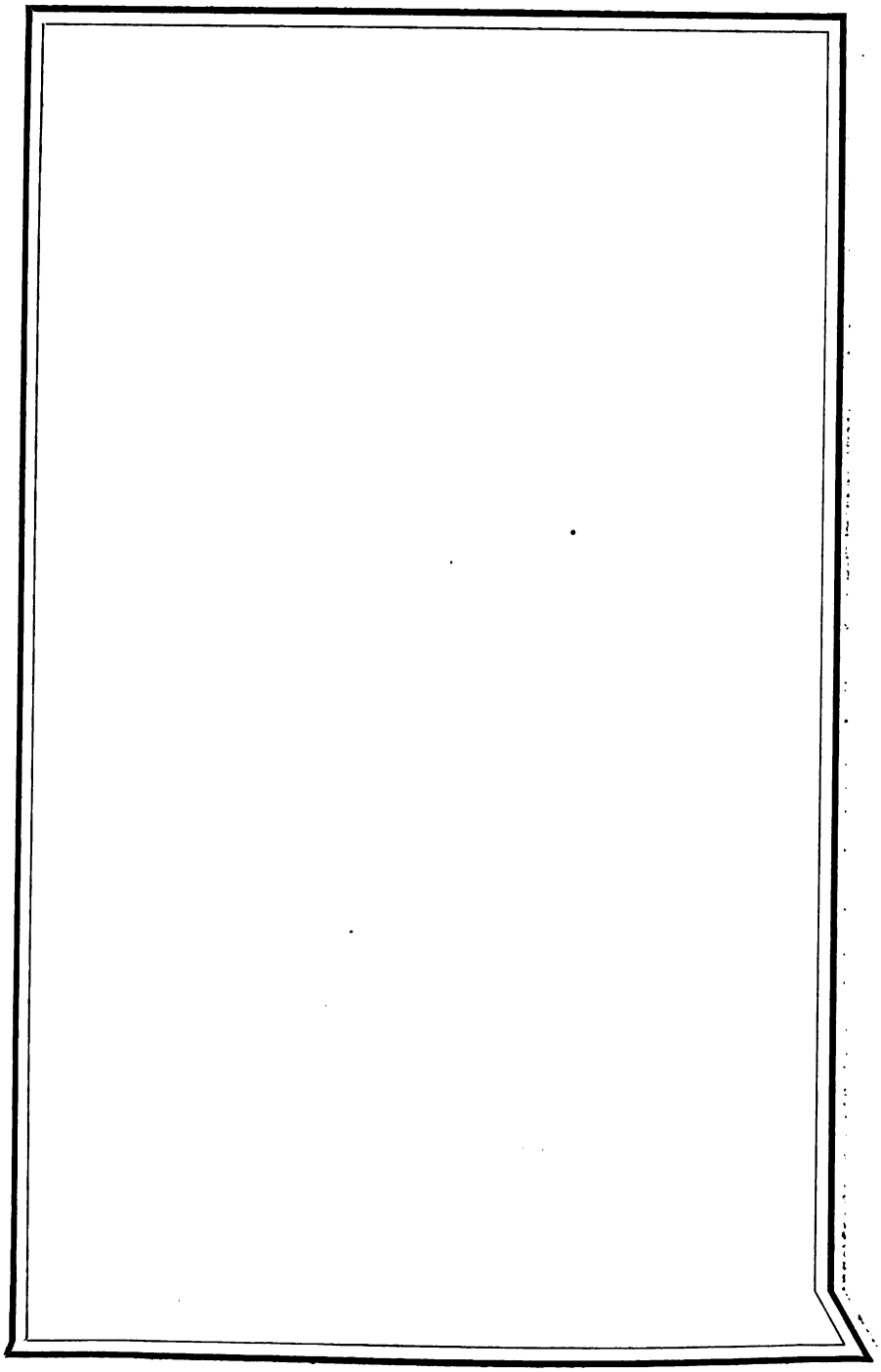
In 1859 Bro. Curry was elected Grand Patriarch, and in 1867 he was elected Grand Master, and in both positions the record of his administration shows many evidences of his marked ability and success in promoting the interests of the Order.

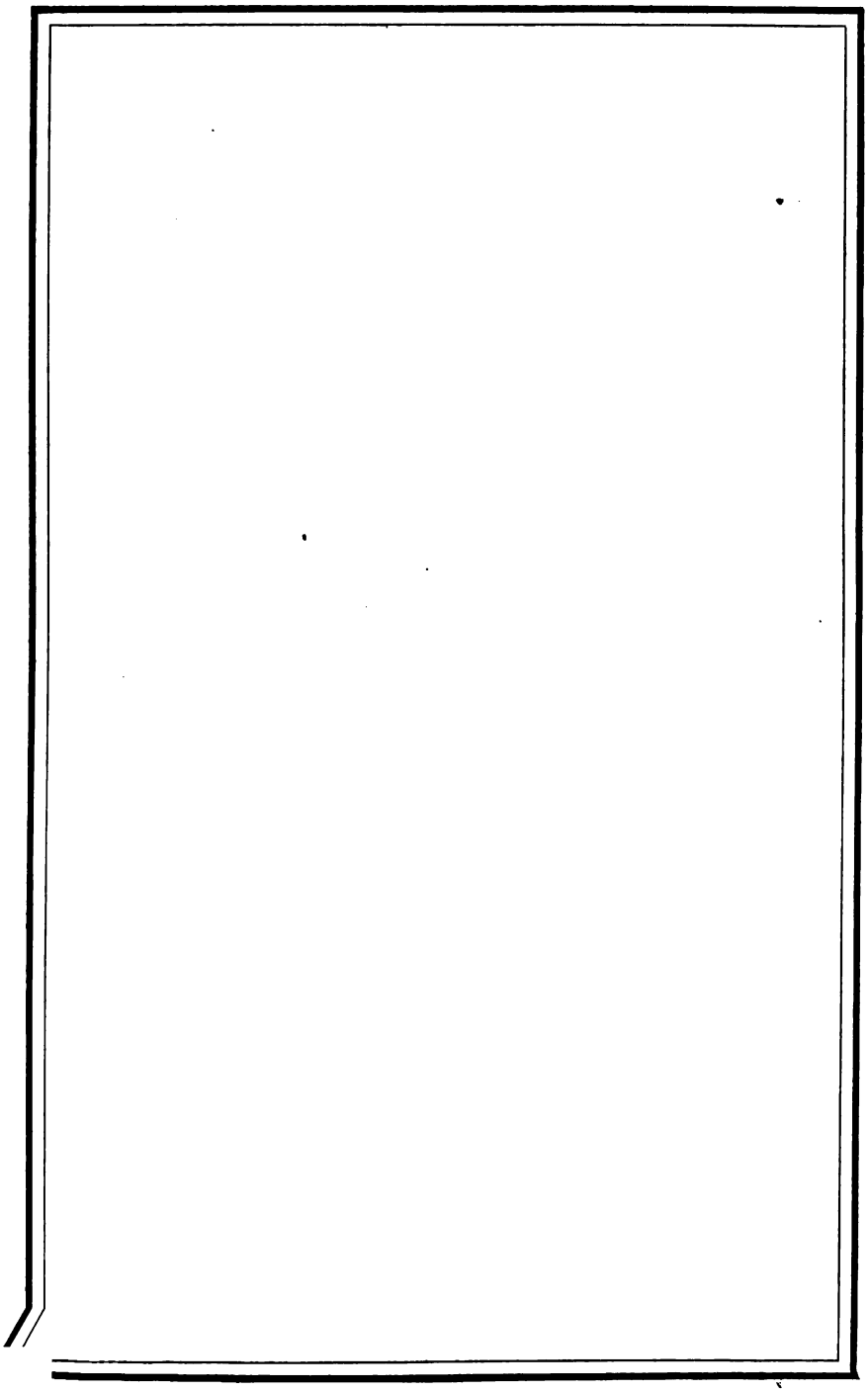
In 1869 he was elected by the Grand Encampment of Kentucky a Representative to the Sovereign Grand Lodge, and so well and faithfully did he perform his duty in that station that he was continued as such until 1876, eight consecutive years. His service in that Grand Body of one year on the Committee on Petitions, two years on the Committee on Finance, and five years on the Committee on State of the Order shows that in that body he also extended the same patient labor and earnest zeal in the performance of duty that had characterized him elsewhere and that won for him the high regard in which he was held by his associates.

From subordinate lodge and encampment, from state and Sovereign Grand Lodge, from his brethren of the Order every where—from one and all comes an attesting voice that Past Grand Master, Past Grand Patriarch, Past Grand Representative William T. Curry was ever punctual in his attendance, zealous in the discharge of his duties, punctilious in his obedience to the laws of the Order, and courteous in his intercourse with all his brethren. I need not say

more if I would. He leaves behind a record that justifies what one brother says of him, "He was a devoted brother, a loving husband, a kind and affectionate father, a good citizen, an honest man, a faithful Odd Fellow, and a true Christian." Who among us would not be satisfied if the same could be truthfully written on his tomb?

And now friend and brother, farewell; thy grave is flooded with the chastened sunlight of autumn like the evening glory of a well-spent life. Light lie the earth on thy clay, and may thy spirit welcome us all when our day's work is done to the ranks of the brotherhood who have crossed the river into the unseen land. To his family, to his friends, to his brethren, especially those among us who are on the decline of life, whose heads are frosted with the snows of many years and who are becoming conscious of the approach of the time when the grasshopper will be a burden, and the days will come when we shall be weary of them, to us all the departure of our brother is the severing of another link which bound us to earth; but with the eye of faith we can look forward and see that another link has been forged that shall never be severed, our brother in that unknown world beyond the river eagerly watching for the day to come when his outstretched hand will grasp our feeble arm and he shall welcome us to the home of the blessed to enjoy the smiles of our Grand Master for evermore.





MEMORIAL ADDRESS DELIVERED BEFORE THE GRAND LODGE OF KENTUCKY, I. O. O. F., AT WINCHESTER, BY PAST GRAND MASTER GEORGE W. MORRIS.

IN MEMORIAM.

Viae gloriae ne nisi, ad sepulcrum ducunt.

"THE PATHS OF GLORY LEAD BUT TO THE GRAVE."

TALIAFERRO PRESTON SHAFFNER,

BORN IN

FAIRQUAIR COUNTY, VA.,

A. D. 1818,

DIED AT TROY, N. Y.,

December 11, 1881.

MEMBER OF

CHOSEN FRIENDS LODGE No. 2,

MOUNT HOREB ENCAMPMENT No. 1,

Past Grand of the Grand Lodge of Kentucky; Past Grand Patriarch of the Grand Encampment of Kentucky; Grand Representative to the Sovereign Grand Lodge of the I. O. O. F.

Under the mysterious dispensations of an all-wise Providence we as individuals and as an organized body are annually arrested in the course of our benevolent pursuits and required to pause, at least momentarily, and made to realize in grief and sadness the vanity of all worldly things, the instability of wealth and power, the certain decay of all earthly greatness, and the frailness of our hold upon human life Since our last annual meeting a great leader has fallen. A majestic and towering form, which was wont to move among us, and upon which we were accustomed to gaze with feelings of pride, respect, admiration, and affection, has disappeared, and the places which knew him so well know him no more. That ever restless brain, that noble and true heart which throbbed for other's woes, that generous, open hand which knew so well the force and power of friendship's grasp, that sweet, soft, familiar voice attuned to notes of friendship, love, and truth, to which we all loved so well to listen, conveying as it did to our ears those words of encouragement, counsel, and wisdom, coming to us with all the power and pathos of magnetic inspiration—these have all passed away never to return, for he who was the instrument of their force, vitality, and inspiration "sleeps his last sleep, has fought his last battle. No sound shall awake him to glory again."

Nearly half a century ago, on a hot summer morning in the month of July, there might have been seen wending his way up Bullitt street, in the city of Louisville, a tall, slender youth, carrying on his shoulder a small hair trunk, which contained a few articles of coarse wearing apparel, and which embraced all his earthly possessions. He had just landed at the Louisville wharf from St. Louis, Mo., to which place he had come from the interior of that State on foot, and having no money was allowed by the kind captain of the boat, who took pity on him, to travel with him to Louisville as a deck passenger.

His object in coming to Louisville was to find a lady who, he had been informed, resided there, and who was a dear friend of

his deceased mother. After reaching Main Street he began his inquiries as to the whereabouts of his "Aunt Mary Eubank," as he styled her, and after wandering about the city for several hours he was finally directed to the humble abode of her who afterward proved to be a friend and a mother to him.

And thus was introduced upon the stage of active life the friendless orphan boy, young Taliaferro Preston Shaffner, who, though born in Virginia, ever claimed Kentucky as his home, and who has left a name which during a third of a century has been as familiar in Odd Fellowship as household words, and an impress in the world of science, literature, and art equalled by few and surpassed by no unofficial American citizen.

Shortly after he came to Louisville he obtained a situation as a clerk in a retail clothing store on what was then known as Wall Street. In this capacity he continued for a few years, when he concluded to take a new departure, and began the study of law. After being admitted to the bar he determined to become conspicuous in his profession and to let his light shine, and to the great astonishment of his legal brethren, who in those days were not given to advertising, the front of his office he covered over with the names of all the states and territories of the Union, he having received the appointment of notary public and commissioner of deeds for them all.

Full of energy, and being of a nervous temperament, he was not satisfied to remain quietly in his office and wait for clients, nor had he the means or influential friends to aid him in his efforts to gratify his laudable ambition to advance rapidly in his profession. He therefore became attracted to the subject of telegraphy, then in its infancy, and soon became absorbed in it, with what results the legal contests in which he was engaged and which he fought step by step through the various courts in defence of the patent rights of Morse will fully attest.

He afterward became associated with Morse in establishing tele-

graph lines through Kentucky, and the first telegraph pole erected in the state was at the southeast corner of Market and Third Streets, in Louisville, placed there with his own hands.

Between the years 1848 and 1853 he constructed a line from Cincinnati to Frankfort, and from the latter place to Louisville. After this he ran a line from Louisville to Paducah; these completed, he began the construction of one to Nashville by way of Bardstown, and ultimately extended it to New Orleans.

In the year 1853 he made an entended tour through several countries of Europe in the interest of telegraphy and railroads, and after his return to this country he published a work on telegraphy which was accepted as authority on that subject both in Europe and America. In the year 1856 he, with eight other gentlemen, conceived the idea of placing a telegraph cable across the Atlantic ocean, and again visited Europe, this time to perfect arrangements for laying a submarine cable. This was done. The obstacles encountered in the transmission of messages over it caused an effort to be made to select a more advantageous route, and for this purpose a vessel was fitted out and placed at his disposal; in it he made a voyage to Labrador, Greenland, thence to Iceland, Scotland, and Denmark, making deep sea soundings for a route by way of these countries. This survey was entirely satisfactory, but the failure of other projects following that of the first Atlantic cable shook public confidence and caused this route to be abandoned.

In this survey he preserved in bottles the substances brought from the bottom of the ocean in his deepest sea soundings, took them to Hamburg, where they were analyzed by one of the most celebrated chemists of Europe, and in which animal life was discovered. This demonstrated the existence of life at the bottom of the ocean, a fact not previously credited among scientists, and when established necessitated some marked changes in physical geography.

In 1861 he again visited Europe, and while there wrote a history of the United States, published in two quarto volumes, in which he.

gave an elaborate review of the causes which led to the war of secession. This work met with ready and extensive sale from the well-known reputation of its author in Europe and his presumed knowledge of and familiarity with the subjects treated of.

During his sojourn there he became a member of several literary and scientific societies of Great Britain and the continent, and formed the acquaintance of many of the most distinguished men of Europe, among whom he classed Fariday, Huxley, Tyndal, Bismarck, and Gladstone, as his personal friends. He was received and treated with marked courtesy by Queen Victoria, the kings of Denmark, Sweden, and Norway, and the Czar of all the Russias, and honors were conferred on him seldom before vouchsafed to any private American. He was decorated with the orders of the Commander of the Sword, Commander of St. Orlaf, and Commander of the Donnabrog, all of which were marks of great respect and distinction.

During the Austro-Prussian-Danish war of 1862 he tendered his services to the King of Denmark, which were promptly accepted by creating him a colonel of artillery, in which capacity he served with great credit until the close of that war.

In 1864 he returned home and was appointed to a position on the staff of General Grant and served with him until the close of the war. He took part in the capitulation of Gen. Lee at Appomattox, and Gen. Grant declared that his narration of that surrender was the most graphic, complete, and truthful account of it that he had ever seen.

After the war closed he turned his attention again to pursuits which required scientific and chemical knowledge, and in the investigation and pursuit of which his efforts, as formerly, were crowned with signal success.

At the time of his decease he was largely interested in establishments which he had founded for the manufacture of nitro-glycerine and giant powder, the difficulties of which in their application to practical purposes had been overcome by his scientific and thorough knowledge.

We turn now to view him in the light in which he presented himself in an altogether different sphere. However bright that light shone in the outer world it was reserved to the inner temple of Odd Fellowship to call forth and put in vigorous exercise those hidden springs of the heart which like a torch "the more it's shook it shines," the result of which was to develop to a remarkable degree those virtues and characteristics which left behind him in his eventful and rugged pathway a power, an influence, and an effulgence which

"Through the ages
Living in historic pages
Will brighter glow
And gleam immortal."

According to his own account he began his earnest life-work as a man in this Order. In after years, alluding to it, he said: "As soon as I became a member I saw there was a chance for me to become useful. I appreciated the honor that had been conferred upon me in considering me worthy to become a member, and at once made up my mind that it devolved on me to compensate by reciprocating the honor. I derived so much good by way of instruction during lodge meetings that I shall never be able to fill the measure of my obligations to the Order, except in ever feeling a sense of gratitude to it."

Most faithfully did he redeem this pledge.

As a young and enthusiastic Odd Fellow he labored in season and out of season for its advancement. Possessed with a laudable ambition to excel in whatever he undertook, it was but a few years after he became a member before his name as a speaker and writer was known throughout the jurisdiction of Kentucky. Nor were his brethren tardy in acknowledging his services and worth, for the records of the Order show that he was advanced to positions of responsibility and honor in it more rapidly than any one who had preceded him.

After he became absorbed in the business affairs of life which took him from his home, friends, and country for a long period of time, he, amid all his wanderings, privations, and dangers would turn with anxious and longing eyes to his old Kentucky home with all the affection and devotion of God's chosen people who in their wanderings would daily turn their faces toward their beloved and devoted city and exclaim: "If I forget thee, O Jerusalem, let my right hand forget her cunning; if I do not remember thee, let my tongue cleave to the roof of my mouth." Referring to his absence he on another occasion remarked: "During my long absence from you how fondly did I revive a recollection of the early scenes of this Order. Oftentimes as I lay on the snow and ice in the far North did I revolve in my mind old associations at home. I was not sure of ever returning, as my exploring life involved me in so many dangers. At all times, however, I thought of home and pined to be with you again. And now after these many years of separation have passed—after roaming over the world, living a checkered life, sometimes in affluence, at other times in poverty and in want; sometimes the guest of sovereigns, princes, potentates, and learned societies, and at other times feasting with the Esquimaux on raw fish, and glad to get it; after one of the most eventful lives that has ever happened to an American of ordinary capacity—I find myself again on the banks of the beautiful Ohio, at home among those I love so well, and with precisely the same zeal and ardent devotion to our Order that I had a third of a century ago."

From and after his return home until his death he was ready to dedicate his time, talents, and energies to the cause of Odd Fellowship in his own lodge and encampment, the Grand Lodge and Encampment, and the Sovereign Grand Lodge of the I. O. O. F. And without going into detail as to what he did accomplish as the result of his increasing efforts, let it suffice to say that no truer, no more devoted Odd Fellow, no one who has ever had the highest interests of this Order more closely entwined around the heart, no

one in all its annals since it was first planted on Kentucky soil presents a brighter or more distinguished record than Taliaferro P. Shaffner.

And thus he continued in the good work, regarding Odd Fellowship in its influence upon mankind as the grandest, noblest, and most potent human Institution in the world, worthy of all commendation and entitled to the best efforts of every true lover of his race.

This address, however, would be incomplete did it fail to record in connection with this remarkable life his firm reliance on a higher power. No one familiar with his writings, and especially with his inner life, can fail to have discovered his profound reverence for things sacred and his strong convictions of the truths of Christianity. When a young man, starting out in life, he embraced religion and united with the Methodist Episcopal Church, and for several years thereafter was an active and prominent member of it. In all his subsequent wanderings over the world he never forgot his first love, but adhered strictly to his early convictions. He was not merely a believer in the Bible, but accepted without mental reservation its teachings, including its great doctrine of grace by which alone through faith rested his hope of salvation. To this may, in a great measure at least, be attributed that mildness of manner, that sweetness of temper, that gentleness, broad philanthropy, readiness to forgive injuries, that heart devoid of malice and overflowing with kindness and love to his fellowmen which were the peculiar characteristics of his nature.

About two years ago, when he lay in a most critical condition, vibrating between life and death as it were, the writer took occasion to converse with him touching his views of the life beyond the grave. His mind at the time was bright and clear, and in a beautiful train of thought he unfolded the subject in which he grounded his hope of salvation through a Crucified Redeemer, expressing his free and unqualified belief in the doctrine of a future state, his willingness and readiness to meet death with composure, having made

his peace with his Maker. Such was his testimony at that critical moment of his history.

On the night of December 3, 1881, the lodges and encampments of Louisville were convened to give expression of their feelings at the great loss which had overtaken the Order throughout the world in the death of James L. Ridgely. Bro. Shaffner was present, and it seems most fitting that his last public utterance on earth should have been pronounced upon his life-long friend. His exordium on that occasion comes to us from the very portals of the tomb. It was as follows:

"My Brethren—The devotees of Odd Fellowship throughout the world are weeping over the loss of their veteran chieftain, James L. Ridgely, who is no more. From the dawn of manhood to the setting sun of old age his pathway through life was decorated with useful bloom. The beautiful rose that glistened in the sunbeams of the morning has withered upon the stalk and its leaves have drooped and fallen to mother earth.

"All that was mortal of Ridgely now lies in the ever-burning furnace of time. He has not had a peer, and he will never have a successor. He was a remarkable man in every position that he occupied in society, and faithful in the discharge of every duty required of him by civil, fraternal, and religious associations.

"And though from his own choice he held but a subordinate administrative office in the Sovereign Grand Lodge, yet his transcendent abilities accomplished for this Institution the most brilliant success."

Within one brief week after the lamented Shaffner gave utterance to these beautiful and truthful words, yet not until after having attained a plane of eminence in this Order such as few have ever reached, and having witnessed with laudable pride the beneficial results of his life labors, suddenly and without warning, away from his home, the summons came to him, when after a brief and heroic struggle with the "King of Terrors" the silver cord was loosed and the golden bowl was broken.

As the lightning writes in legible characters its fiery pathway across the dark cloud and then disappears, so the race of man walking amid the surrounding shades of mortality glitters for a moment through the gloom and then vanishes from our sight. And so too, my brethren, our labor of love and duty on this earth will soon be ended and we called to join that mighty army who have crossed the river of death.

Soft be the bed of our departed brother and friend, and sweet be the clods of the valley unto him; with fragrance eternal be his memory green in our recollections and affections, and while we that memory most fondly cherish let us one and all his sterling virtues emulate.

Death is the inexorable penalty we must all pay. It is an inflexible and an inherent law, binding upon every thing animate and inanimate. It is written alike upon the giant oak which has withstood the storms of a century, and the sensitive plant which droops and withers at the slightest touch; upon the falling leaf, the beautiful flower, the silent and majestic mountain; upon the brow of helpless infancy, the stalwart frame of vigorous manhood, and the trembling limbs of age. It has no limitation, save the measure of our days which our Creator hath prescribed, and hath ordained that "Dust thou art and unto dust thou shalt return," or in the language of our ritual, "All that is born must die."

"But it can not be that this earth is man's only abiding place. It can not be that our life is but a bubble cast up by the vast ocean of eternity to float for a moment on the wave and then sink into deep darkness and nothingness. Else why this constant longing of the soul after immortality? Why is it that aspirations which leap like angels from the temples of our hearts are forever wandering about unsatisfied? Why is it that yonder stars, which hold their festival around the midnight throne, are set so far above the grasp of our limited faculties forever mocking us with their unapproachable glory? Why is it that the bright forms of human beauty are pre-

sented to our view and then taken from us, leaving the thousand streams of our affection to flow back in cold and Alpine torrents upon our hearts?" No, no; it can not be; for not only the page of inspiration, but nature's every page reveals in characters of living light the great truth that it is not all of life to live, that death does not end all, that we are born for a higher, a nobler destiny than that of earth.

Yes, my brethren, these brilliant lights which have adorned and studded the firmament of Odd Fellowship are not put out. They are but hid for the moment behind the gloomy shadow of what we call death only to reappear in immortal beauty, purity, and brilliancy, to shine forever.

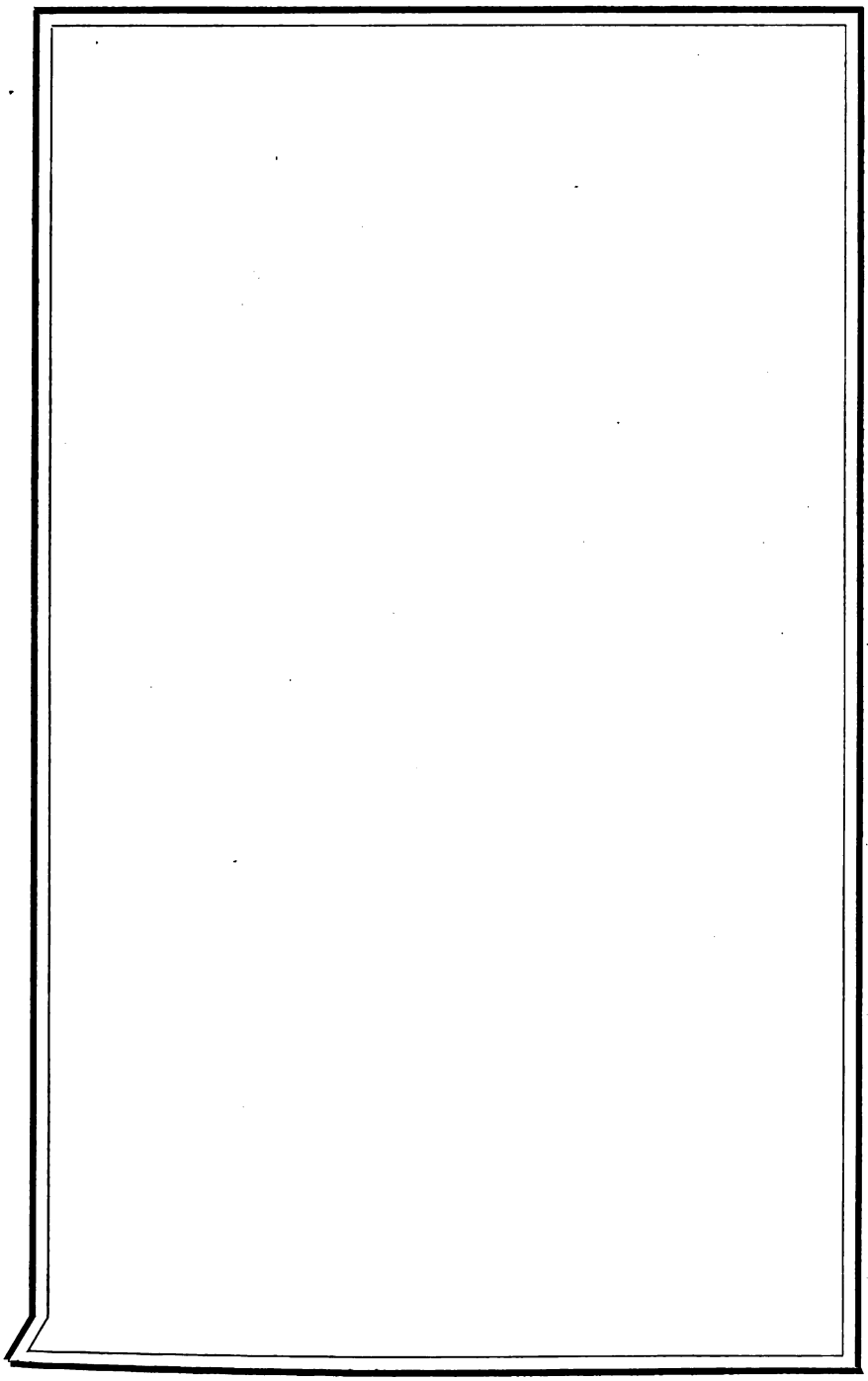
* "There is no death; the stars go down
To rise upon some fairer shore;
And bright in heaven's jeweled crown
They shine forever more."

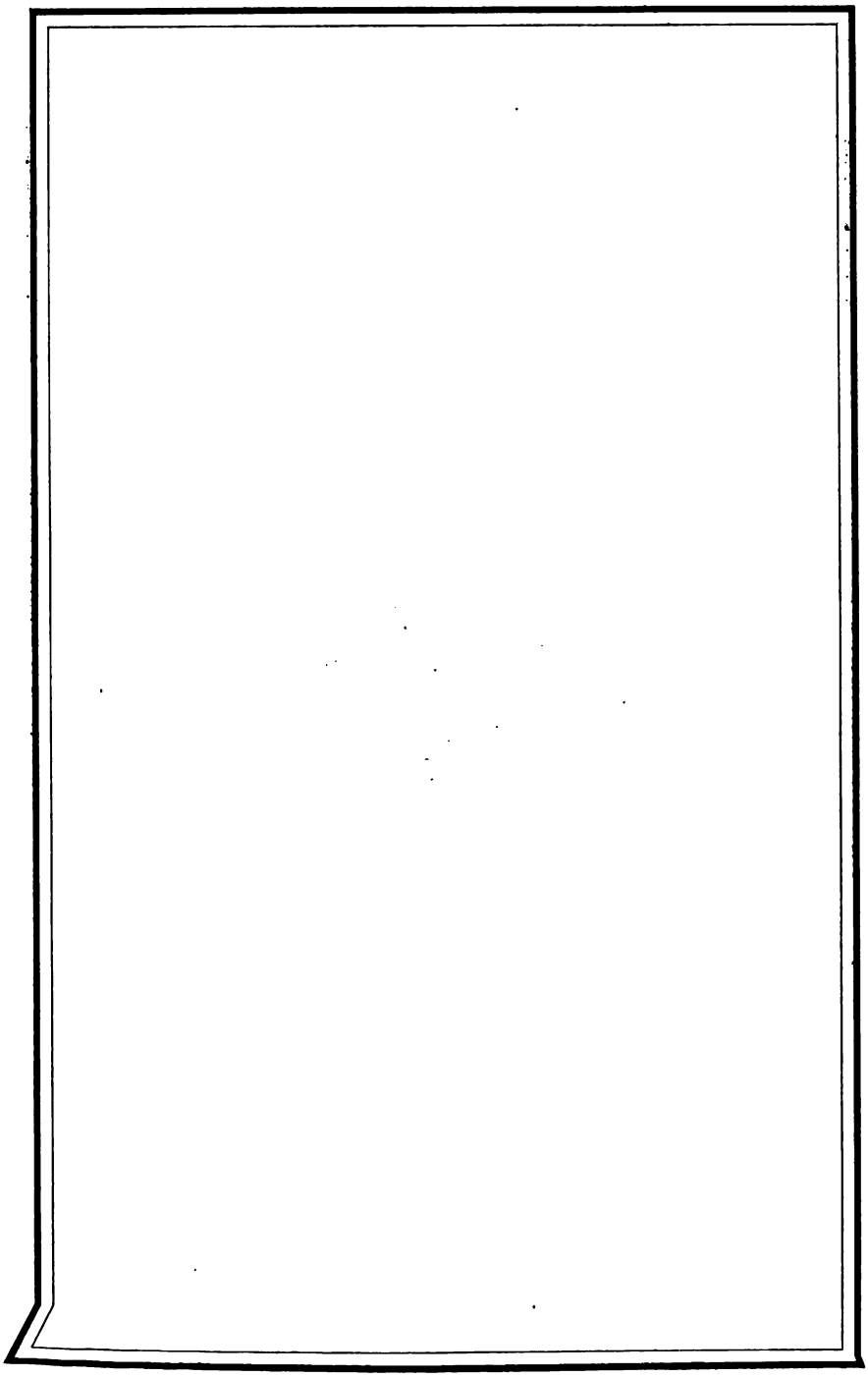
"There are some rocks God planted on the shore
To fix the boundary 'twixt land and sea;
There are some men who mid the strife and roar
Are moral light-houses where so 'r they be.

"They also serve who only stand and wait,
Yet folded hands would ill become us all;
The world has need of those who conquer fate,
And there are men—victorious as they fall.

"Of all such men thou wast a noble peer;
Thy life o'er ours shall cast a heedfull spell,
And now we pay the tribute of a parting tear,
And say, 'Dear Shaffner, hail, farewell.'"

*This gem is usually ascribed to Bulwer. Its author, however, is J. L. McCreary, an American, who at the present time is a clerk in the Department of the Interior at Washington.





REPORTS and RESOLUTIONS

ADOPTED BY THE

Grand Lodge of Ky., I. O. O. F.

Past Grand Master M. J. Durham submitted the following report:

To the Grand Lodge of Kentucky;

The Committee on Demises beg leave to report that during the past year death has invaded our brotherhood, and has taken from our midst some of our most distinguished as well as our most experienced and trusted members. Their deaths are a serious loss to us, but we should imitate their noble examples, and emulate their many striking virtues. Shaffner, Curry, Merrick, Pindell, Dean, Shaller, Grief, and Holland, of our own jurisdiction, after years of devotion to the principles of our Order, have gone to reap their rewards, we hope, in the Grand Lodge on high. We would not be unmindful of the loss we and the Order everywhere has sustained in the death of Brother Ridgely after a long life of usefulness and great activity at his post of duty; he, too, has gone to his long last resting place. We should not indulge in fruitless repinings at the loss of these brothers, but borrowing inspiration and incentive from the sublime example left us in the purity of

their lives and the beneficence of the works which still follow them, we should be the more zealous in the upbuilding of the great and grand principles of this Order.

We refer to and make part hereof the accompanying synopsis of the lives and characters of these brothers, the extended addresses in regard to Brothers Ridgely, Shaffner, and Curry, and the resolutions concerning Brother Ridgely.

Fraternally reported,

M. J. DURHAM, B. F. PULLEN,
G. W. MORRIS, C. W. HARRIS.
A. H. RANSOM,

Which was adopted by a rising vote.

Past Grand Master Geo. W. Morris, from the same committee, submitted the following report:

To the Grand Lodge of Kentucky:

To cherish the memory and to commemorate the virtues of the loved who have gone before us is the grave duty which devolves upon your committee at each recurring session of the Grand Lodge.

In the language of him of whom we now speak, our venerated and beloved Shaffner, "Every year we are called to lament the departure of a brother on the journey through the dark valley of the shadow of death. Every year we are called to feed the ever-burning furnace of time with one or more of our chosen few."

To speak of the honored and lamented Shaffner and to recount his eminent services to this Order in the subordinate lodges and encampments, the Grand Lodge and Grand Encampment of Kentucky, would be to almost reproduce the history of Odd Fellowship in this jurisdiction during the past forty years. No man was better or more favorably known, no one ever rendered more substantial and valuable benefits; no one ever gave more time, energies, and

talents to advance the great interests of this Order, and no one ever endeared himself to the hearts of the whole brotherhood than he.

His unexpected death was a severe blow to our whole Order, and in this jurisdiction left as it were "an empty chair in each of our homes," and deep grief in every heart; but having reached the bounds beyond which he could not pass, God took him from us to Himself, and in the language of his favorite poem, which he so often repeated in the last year of his life, of him be it said—

"The truer life drew nigher,
The morning star climbed higher,
Earth's hold on him grew slighter,
The heavy burdens lighter,
And the dawn immortal brighter,
Every year."

To his bereaved widow, his orphan children, his relatives and intimate friends, the tenderest sympathies of this entire fraternity are hereby most kindly and respectfully tendered in a loss which to them can be but little short of irreparable.

Which was adopted by a rising vote.

Grand Representative A. H. Ransom, from the same committee, submitted the following report:

To the Grand Lodge of Kentucky:

Since the last annual communication of this Grand Body death has invaded its ranks and claimed as a victim one of its most prominent members, Past Grand Master William T. Curry, and we are thus again reminded that "in a few more years at most we shall be called to join those who have gone to their rest; our voice will be as silent, and our arm as powerless as theirs, and then all that will remain of us on earth will be the good or the evil that we have done."

Brother Curry was born in the city of Harrodsburg, Kentucky, January 6, 1823, and died in the same city April 21, 1882, at the age of 59—full of years, rich in love and confidence of the entire community in which he lived and died, leaving behind him a name honored and respected by all, and in the confident hope of a blessed immortality.

He was initiated in Montgomery Lodge No. 18, at Harrodsburg, but six months after the lodge was instituted, when he was 22 years of age; was installed Noble Grand in July, 1847, and was ever a faithful and zealous member of the lodge, and to him the lodge is indebted for much of its prosperity and its influence in the community.

In July, 1856, he became a member of this Grand Body, and with the exception of one year he was present at every session from that time until the year 1880, when he was prevented from attending by the sickness which, after eighteen months of intense suffering, terminated his life. His constant attendance, his zeal for the welfare of the Order, his valuable labors in the work of the Grand Lodge, and his affable and courteous demeanor in his intercourse with his brethren soon gained for him the high position in this Grand Body which was held by him to the close of his life. In 1869 he was elected by the Grand Encampment a Representative to the Sovereign Grand Lodge, and was continued as such until 1876—eight consecutive years. He soon gained and held a high position among its members as is shown by his service of one year on the Committee on Petitions, two years on the Committee on Finance, and five years on the Committee on State of the Order.

The record of such a life is a valuable legacy to all who survive, and should stimulate us to follow so worthy an example that when our work on earth is ended and we are called upon to surrender our trust we, too, may be received with the welcome salutation, "Well done thou good and faithful servant, enter thou into the joys of thy Lord."

Which was adopted by a rising vote.

Past Grand Master Geo. W. Morris, from the same committee, submitted the following report:

To the Grand Lodge of Kentucky:

Past Grand Master H. C. Pindell, whose death occurred about six months ago, united with our Order at Lexington, Kentucky, in the year 1848, at which time he was a young lawyer; he was finely educated, a close student, and for years prior to his death had won distinction at the bar; he arose rapidly in the Order, reaching the chair of Grand Master in 1852, within four years of the date of his initiation, and for several years following was among the most valuable, influential, and popular members of the Grand Lodge. In the later years of his life he rendered valuable service in forming and putting into operation the Benefit Association, and during several years was its President.

He was an upright judge, a conscientious lawyer, a consistent Christian, an eminent citizen, a true Odd Fellow, whose death is deeply deplored by all who knew him.

Past Grand A. B. Dean, an honored member of Chosen Friends Lodge No 2, died on December 10, 1881, of yellow fever at Havana, Cuba, where he had gone in the pursuit of his business.

In the prime and vigor of manhood, full of energy, of bright hopes and earnest purpose, in a strange land, away from home, family, and friends, he was suddenly removed from the trials, disappointments, and struggles of this earth to the rewards of the life beyond the grave.

As a Christian he was active and enthusiastic, coming up to the full measure of the rule to "visit the widows and the fatherless in their affliction."

As an Odd Fellow he was thorough, constant, and true to its principles, and in his daily walk he exemplified the principles he professed.

As a business man he was prompt, energetic, enterprising; prosperity did not allure him from the strict path of rectitude, nor did misfortune lessen his endeavors to overcome them.

As a citizen he was ever ready to do all in his power to advance the best interests of the city in which he lived.

As a parent he was kind, considerate, affectionate, and our heartfelt sympathies are hereby tendered his bereaved widow and orphan children.

Which was adopted by a rising vote.

Representative C. W. Harris, of No. 32, from the same committee, submitted the following report:

To the Grand Lodge of Kentucky:

It is with sorrow that your committee are called upon to chronicle the death of our brother, Past District Deputy Grand Master N. B. Shaller, of North Star Lodge No. 76, which occurred at his home in Newport January 17, 1882. Brother Shaller was a man whose mind and heart had both been broadened by extensive travel and large acquaintance with the world; a man who in his day and generation held a high rank in his chosen profession (medicine), and who fulfilled every duty entrusted to his hands with a fidelity that was proverbial—a graduate of Harvard, class of 1829, a graduate of the Boston School of Medicine. He was besides possessed of a fund of general information seldom surpassed by his cotemporaries. As a husband, father, son, and friend he was a very model.

He was initiated into the Order in Noah's Dove Lodge No. 20, May 4, 1846, and in 1850 he became one of the charter members of North Star Lodge, with which he remained in active membership to the time of his death.

The snows of more than threescore and ten winters had whitened his head, and, thank God, his heart was well. *Requiescat in pace.*

Which was adopted by a rising vote.

Past Grand Sire M. J. Durham, from the same committee, submitted the following reports:

To the Grand Lodge of Kentucky:

Past Chief Patriarch Francis Grief was born in San Wendel, Sax Coburg, Germany, September 29, 1808; emigrated to America with his father's family in 1834; settled in Paducah, Ky., in the year 1842; was initiated in Mangum Lodge No. 21, on January 7, 1847. He became a member of Mount Nebo Encampment No. 19, December 10, 1858. He was an Odd Fellow nearly thirty-six years, and never failed to attend a meeting of his lodge unless prevented by sickness. He died August 12, 1882. He was a good man, a zealous and consistent Odd Fellow, and a good citizen. His memory and his virtues will be templed in our hearts.

To the Grand Lodge of Kentucky:

Past Grand and Past Chief Patriarch Thomas Perry Holland was born in Fluvanna county, Virginia, October 6, 1822. His parents removed to Christian county, Kentucky, in 1834, and from thence to Trigg county, Kentucky, in 1836. He was married July 3, 1844, and located in McCracken county in 1849. Was initiated in Mangum Lodge No. 21 in 1853,, became a charter member and was the first Noble Grand of Lovelaceville Lodge in the latter part of the same year; was a charter member and first Noble Grand of Massac Lodge No. 137. He has several times represented his lodge in the Grand Lodge, and was noted for his zeal and devotion to Odd Fellowship.

On Tuesday, October 24, the day of the assembling of this Grand Lodge, he died. His funeral was on the following day, his remains being borne to burial within a few feet of his lodge-room, in accordance with his request, by his brother Odd Fellows.

Our brother was struck down by scarce a note of warning. The announcement of his death fell upon the heart of a grieved com-

munity, a large and widely distributed circle of friends, and a loving brotherhood like the sudden, deep tolling of a funeral bell upon a festival group. We have reason to believe that the remorseless stroke fell upon one well-prepared to receive it. His business probity, his stainless, private character, his personal virtues, all lead us to confidently say that there was a torchlight of comforting hope to illume the otherwise dark valley of the shadow of death.

He loved his family, his home, and his friends, and was ever grateful to God for the blessings he enjoyed.

We have nothing left us now but the memory of an unreproached name that is with Odd Fellows "as ointment poured forth."

To the Grand Lodge of Kentucky:

WHEREAS, it has pleased Divine Providence to remove from us by death our well-beloved brother, James L. Ridgely, therefore,

Resolved, That we recognize in this sad event, not only a great bereavement, but the loss of one who has done more to unite the human race in the ties of a common brotherhood than any man of his time.

Resolved, That while we can scarcely sorrow for the death of one who attained a ripe old age, whose work had been so well and so thoroughly done, and who leaves to his family and friends the fragrance of the memory of a well-spent and illustrious life, yet we find that this Order has sustained an irreparable loss, the loss of one who has conferred upon mankind benefits beyond the achievements of the warrior, the scholar, or philosopher.

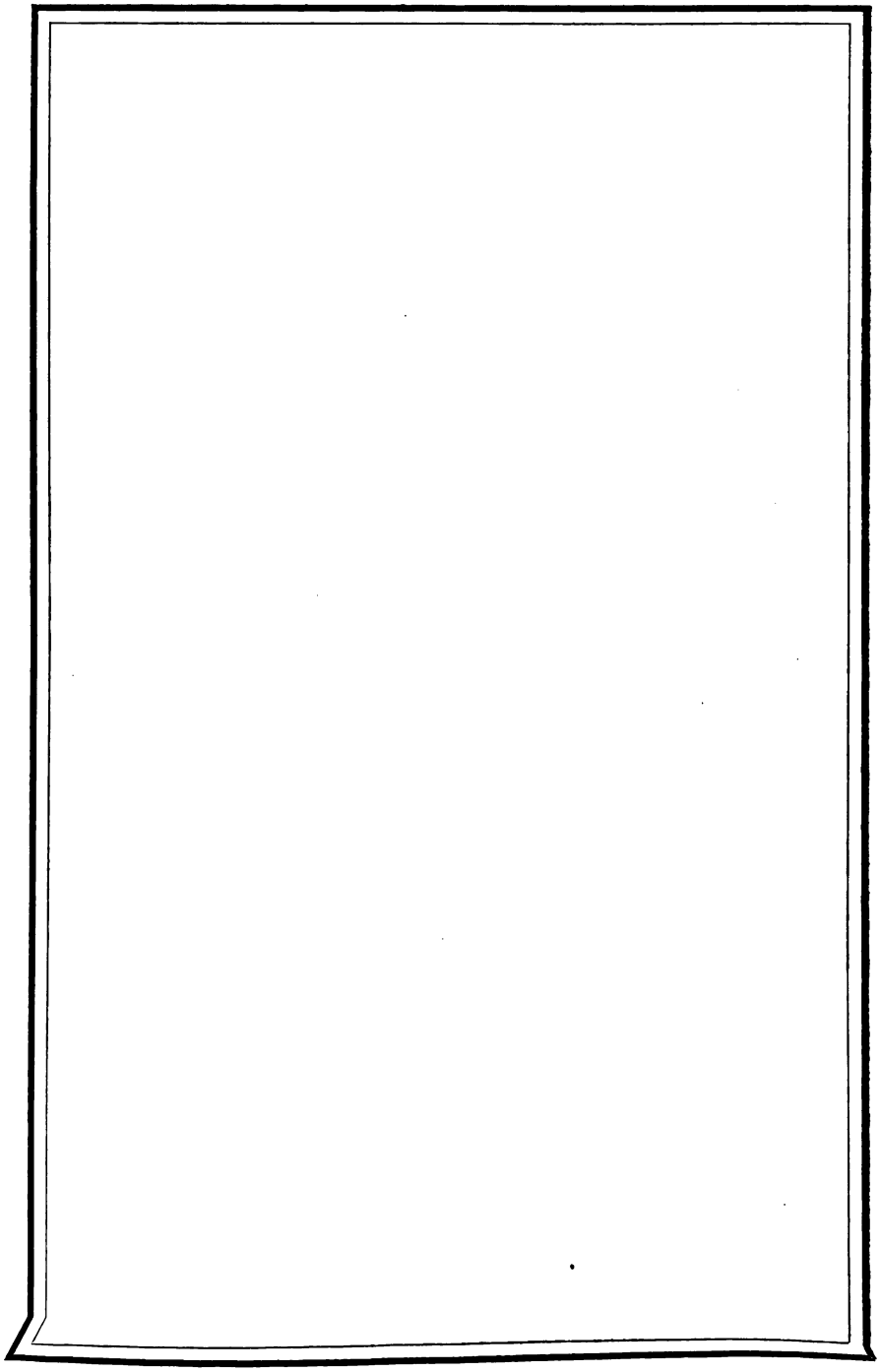
Resolved, That as we survey the long and splendid career of our brother who has fallen at his post of duty, and to whose finished life the seal of death has now been set amid the universal regrets of his brethren, we shall best prove our love and veneration for his *memory, not by indulging* in fruitless repinings, but by borrowing

inspiration and incentive from the sublime examples left us in the purity of his life and in the beneficience of the works which still follow him though he has rested from his labors.

Resolved, That cherishing for his memory a profound admiration and affection, we proffer to his bereaved family our sincerest sympathy and condolence.

Resolved, That the Secretary of this Grand Lodge transmit a copy of these resolutions to the family of James L. Ridgely.

Which were adopted by a rising vote.



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A TRIBUTE

[illegible] PROCEEDINGS AT A MEETING OF THE
UNION LEAGUE CLUB NEW YORK CITY
FEBRUARY 14 1878

NEW YORK
PUBLISHED BY REQUEST
1902

Yours
Theodore Roosevelt

THEODORE ROOSEVELT

SENIOR

A TRIBUTE

THE PROCEEDINGS AT A MEETING OF THE
UNION LEAGUE CLUB NEW YORK CITY
FEBRUARY 14 1878

NEW YORK
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IN the various accounts of President Theodore Roosevelt many errors have been made as to his direct ancestry, and many have failed to connect him with his father, the late Theodore Roosevelt (Senior), who was so greatly beloved and respected during his useful life in New York City.

It has therefore been suggested that I should reprint a letter read at the Memorial Meeting of the Union League Club in February, 1878, which gives an account of some of the many forms of civic and philanthropic usefulness, which made Mr. Theodore Roosevelt (Senior) such a power and influence for good. Few men have left so deep an impress upon a community, or bequeathed to a son so splendid a legacy of earnest devoted and patriotic service.

WILLIAM E. DODGE.

April, 1902.

THEODORE ROOSEVELT SR

AT a meeting of the Union League Club of New York City, held February 14, 1878, the following action was taken as to the death of the late Theodore Roosevelt:

After the regular business of the Club had been transacted, Mr. Joseph H. Choate arose, and, in an eloquent and fitting speech,* offered a series of resolutions upon the death of Mr. Theodore Roosevelt, who was one of the Vice-Presidents of the Union League, and who had for years taken an active interest in the affairs of the Club. Mr. Choate at some length rehearsed the story of Mr. Roosevelt's public life, calling attention to the practical manner in which Mr. Roosevelt managed the many charitable works which he in his lifetime was busily and constantly engaged in. Mr. Choate said that he considered

*Unfortunately no record of this address has been preserved.

Mr. Roosevelt as the most unselfish citizen of all the unselfish citizens in this great city, and that, although Mr. Roosevelt was only in the forty-eighth year of his age, he had accomplished more good than men who had lived active lives for many more years than Mr. Roosevelt had been spared in which to do his good work among men. It seemed, said Mr. Choate, as if he, like Joshua, had commanded the sun of his life to stand still in order that he might accomplish the fullest measure of his life's work. Mr. Choate read the following letter from Mr. William E. Dodge, Jr., who was an intimate friend of Mr. Roosevelt, and associated with him in many of his public and private charities.

LETTER OF
WILLIAM E. DODGE JR

LETTER FROM WILLIAM E. DODGE JR

NEW YORK, February 12, 1878.

MY DEAR MR. CHOATE:

Mr. Roosevelt was so identified with the best work and the most successful years of the Union League Club that it seems to me peculiarly fitting it should take special notice of the great loss it has sustained by his death.

I regret I cannot be present at the meeting, and if I could, after so many years of active work with him, my love for his memory is so great and my sense of personal loss so keen, I dare not trust myself to speak of him as I would.

I know you will permit me to tell you of some reasons why we should, as a club, talk of him together before we sacredly and tenderly lay by his life in our memories.

I first knew him well, as did some others among us, in the six years before the war.

With earnest Christian principle he had devoted his life, with fixed purpose and with great self-sacrifice and devotion, to working for others. He gave the best and largest part of his time outside of his business to cheerful, organized labor among the poor and unfortunate in the eastern part of the city. His steady work in the tenement houses, and his teaching and personal influence on the Sunday and during the week, gave him a wonderful drill and education.

They developed in him a rare and tender sympathy for all who were unfortunate or needy and great executive power in working for them.

When the shadows of the coming war began to grow into a reality he threw himself with all heart and soul into work for the country.

From peculiar circumstances he was unable to volunteer for military service, as was his wish, but he began at once to develop practical plans of usefulness to help those who had gone to the front.

He became an active worker on the Advisory Board of the Woman's Central Association of Relief, that wonderful and far-reaching organiza-

tion of patriotic women out of which grew the Sanitary Commission.

He worked with the "Loyal Publication Society," which, as many of our members know, was a most active and useful educating power in the days when there was great ignorance as to the large issues of the conflict.

He joined enthusiastically in the organization of the Union League Club, was for years a most valued member of its executive committees and aided in the raising and equipment of the first colored troops.

His great practical good sense led him to see needs which escaped most other minds. He felt that the withdrawal from the homes of so many enlisted men would leave great want in many sections of the country. He saw the soldiers were more than amply clothed and fed, and their large pay wasted mostly among the sutlers, and for purposes which injured their health and efficiency. So with two others he drafted a bill for the appointment of Allotment Commissioners, who without pay should act for the War Department

and arrange to send home to needy families, without risk or cost, the money not needed in the camps. For three months they worked in Washington to secure the passage of this act—delayed by the utter inability of Congressmen to understand why any one should urge a bill from which no one could selfishly secure an advantage.

When this was passed he was appointed by President Lincoln one of the three Commissioners from this State. For long, weary months, in the depth of a hard winter, he went from camp to camp, urging the men to take advantage of this plan.

On the saddle often six to eight hours a day, standing in the cold and mud as long, addressing the men and entering their names.

This resulted in sending many millions of dollars to homes where it was greatly needed, kept the memory of wives and children fresh in the minds of the soldiers, and greatly improved their morale. Other States followed, and the economical results were very great.

Towards the close of the war, finding the crippled soldiers and the families of those who had fallen were suffering for back pay due and for pensions, and that a race of greedy and wicked men were taking advantage of their needs to plunder them, he joined in organizing the Protective War-Claim Association, which without charge collected these dues. This saved to soldiers' families more than $1,000,000 of fees.

He also devised and worked heartily in the Soldiers' Employment Bureau, which found fitting work for the crippled men who by loss of limb were unfitted for their previous occupations. This did wonders towards absorbing into the population of the country those who otherwise would have been dependent, and preserved the self-respect of the men. I believe it did more and vastly better work than all the "Soldiers' homes" combined. For the work in the Allotment Commission he received the special and formal thanks of the State in a joint resolution of the Legislature.

During all the time following the war he was most actively engaged in the work of the Children's

Aid Society, caring personally for the poor boys under its care. He also organized and established a hospital for those suffering from diseases of the spine and hip, which has done great good.

His practical work and great good sense in his attempts to unify the charities of the city, his generous help in the State Charities Aid Association, the vim and courage which he threw into the executive committees of the Museum of Natural History and the Metropolitan Museum of Art in their days of greatest need—and especially the ripe, mature and grand work of the last few years as the practical head of the State Board of Charities—are known to all of us.

I have said nothing of his work in the Church; of his steady, unfaltering patriotism; of his efforts for civil-service reform; of his sweet, strong influence in his home and among his friends.

Thoroughly and strangely unselfish, with untiring energy and bright cheerfulness, he literally "went about doing good."

Sound, careful, and with marvelous good judgment, he added to these qualities a magnetic

power in influencing others I have never seen equalled. In thinking of him two things strike me most deeply:

When he saw a practical means of help to any needy ones—where others would have hesitated and shirked responsibility—he acted immediately.

And then his uniform, sunny brightness, which melted every obstacle and won all hearts.

Those of us who were associated with him intimately through all these years hardly as yet dare to think of the magnitude of our loss.

Very truly yours,

W. E. DODGE, JR.

J. H. CHOATE, ESQ.

RESOLUTIONS

RESOLUTIONS

AFTER reading the letter, Mr. Choate moved the following resolution:

Resolved, The members of the Union League Club have received with heartfelt sorrow the intelligence of the death of their late associate and Vice-President, Mr. Theodore Roosevelt. He was one of the originators and founders of the Club, and at all times one of its most faithful and devoted members. In its earlier days, when unconditional loyalty was its only test, he was foremost in courage as well as in loyalty, and took a leading and always important and useful part in all those measures of patriotism with which the Club was proudly identified. He recognized the war at the very outset as a dangerous and desperate struggle for the existence of the nation, and gave to its successful prosecution the best efforts of his life.

In all these benevolent enterprises, by which the soldier in the field was aided and sustained, he was a master spirit.

In later years and down to the very day of his untimely death he was a rare and signal example of exalted and unselfish public spirit, laboring zealously to bring about a higher order of public service and an era of better politics. His life is a stirring summons to the men of wealth, of culture, and of leisure in this community to a more active participation in public affairs as the only sure method by which their declining condition may be regenerated. It was thus that he believed and acted. His careful and wise judgment in council, and his vigorous executive ability contributed largely to the success of every public enterprise in which he took part. For many years he gave up to the conduct of public and private charities and other institutions of benevolence his thoughts, his time and his money, but better than all these his inspiring personal presence, by which he animated and vitalized whatever he touched. His manly character, his absolute unselfishness, his

wisdom and courage, and his gentle presence endeared him to us all, and we take a last farewell of him with tears and deep regrets.

Resolved, That out of a genuine respect for his memory the foregoing minute be entered upon the records of the Club, and that a copy be transmitted by the President to Mr. Roosevelt's family.

The resolutions were seconded by Mr. John Jay, who highly eulogized Mr. Roosevelt in a few eloquent and exceedingly appropriate remarks. Mr. Jackson S. Schultz followed Mr. Jay, and referred to Mr. Roosevelt's connection with the Union League Club in its earliest days and to the interest he took in the Sanitary Commission and kindred charities during the war. The resolutions were unanimously adopted by a large meeting of the members.

MAY 20 1901

7

PROFESSOR ROWLAND.

1848–1901.

AN ADDRESS

BEFORE THE OFFICERS AND STUDENTS OF THE JOHNS HOPKINS UNIVERSITY, ASSEMBLED BEFORE THE FUNERAL, APRIL 18, 1901.

By Daniel C. Gilman,
President.

A great man has fallen in the ranks—great in talents, great in achievements, great in renown. Not now need we recall the incidents of his life, nor estimate the characteristics of his impressive personality, nor enumerate his contributions to physical science. We are assembled in this academic hall as his friends, his pupils, his colleagues, about to follow his deserted body to the church, and there in silence to give thanks for such an example, or to utter, with his kindred, words of faith and hope, consecrated by the comfort they have given to the mourners of many climes and of many centuries. Before these last rites, we pause to think what sort of a man was this whom we so love and honor, whom we so lament, whose death, in one aspect, seems so premature; in another, crowned with the best that earth can give.

Our friend was born with a powerful mind, and the older he grew the more powerful it appeared to those who knew him intimately and to those most capable of understanding the problems and the methods which engaged his thoughts. Others may have eyes as keen and fingers as facile, but his vision and his dexterity were controlled by a brain of extraordinary fineness, versatility, and strength. Nobody could walk with him, hunt with him, sail with him, talk with him, work with him, without perceiving his firm grasp, his clear aim, his concentrated energy, his extraordinary powers. In early youth his mind was directed

to the study of nature—not so much to plants and animals as to physical and chemical forces. This was the bent of his life. It is true that he was fond of music, classical music especially—Chopin's funeral march, for example,—and he loved good works of art—the Madonnas of Raphael, for example.

Yet he cared but little for literature, having showed, in his early days, a boyish animosity toward Greek and Latin which he never wholly overcame. Aristotle was no authority to him. But the mysterious forces of the physical world—gravitation, sound, light, heat, electricity and magnetism—were his constant study. The principles of mechanics were to him of fundamental importance, and mathematics was subservient to all his investigations. In this broad field he was a reader, a student, an experimenter, an inventor, a discoverer, a philosopher. He knew how to ask a difficult and far-reaching question, and he knew how to seek the answer.

Extraneous considerations were excluded when he saw the point of an inquiry, and on that point he concentrated all his powers. For example, when he began the brilliant series of experiments in spectrography, which made him peerless in this domain, he saw that the spectrum depended on the accuracy of the gratings, and the gratings on the dividing engine, and the dividing engine on the screw,—so he began the study of light by devising and making a screw, more exact than any screw that has ever been produced by the most accomplished makers of instruments of precision, and then he saw that photography must be improved before he could reveal to the eye of others the intricacy of the solar spectrum.

His intellectual apparatus was controlled by a powerful will. When he was determined upon a given course, no regard for consequences, no apprehension of perils or of difficulties, no dread of failure, proved a barrier. They heightened his zest. Fortunately his ends were noble and his proceedings wise, so that rarely, if ever, did failure disappoint him or weaken his self-confidence. He would have been a great soldier, a great explorer, a great lawyer.

But above his keen perceptions, his logic, his adaptation of means to ends, and his marvelous concentration, I must place another moral quality—one that appeals to every one of us, whether we understand his determination of the mechanical equivalent of heat, or the steps by which he arrived at the value of the ohm. This moral quality is the love of truth. Of course, he was true in all the ordinary relations of life. That is the beginning of truth, but not the end of it. He was also true in all his investigations, careful to eliminate errors, to avoid preconceptions, to shrink from hasty conclusions and inferences, to be critical of other investigations, to be accurate, exact, conscientious, to spare no pains, to shrink from no efforts, to conceal no difficulties, in order that the absolute facts might be established, so far as this can be done by limited humanity. To him science was another word for truth—not all the truth, but that amount of truth which the limited powers of man have discovered. He was a follower of Isaac Newton, picking up upon the seashore a few pebbles and discerning their lessons.

At the close of our first decennium, two speakers were brought forward to tell, respectively, what had been the aims of this University in providing for the study of science and letters. These speakers were Professor Gildersleeve and Professor Rowland. They had no preliminary conference, but each brought his discourse to a close by a return to the keynote—the keynote which had governed and should govern our personal behavior and the harmonies of our associated lives as members of the Johns Hopkins University.

Said the exponent of letters: "First and last, the scientific standard must be upheld for the university man, be he a student of letters, be he a physicist; and that standard is the absolute truth, the ultimate truth. 'Nothing imperfect is the measure of anything,' says the prince of idealists."

Said the man of science: "But for myself, I value in a scientific mind most of all that love of truth, that care in its pursuit, and that humility of mind which makes the possibility of error always present more than any other quality. This is

the mind which has built up modern science to its present perfection, which has laid one stone upon the other with such care that it to-day offers to the world the most complete monument to human reason. This is the mind which is destined to govern the world in the future and to solve problems pertaining to politics and humanity as well as to inanimate nature.

"It is the only mind which appreciates the imperfections of the human reason and is thus careful to guard against them. It is the only mind that values the truth as it should be valued and ignores all personal feeling in its pursuit. And this is the mind the physical laboratory is built to cultivate."

These are words worthy to be recalled by the successive groups of students who come here for instruction and counsel as the years roll on. Let us sacredly cherish our inheritance.

In closing, let me call our departed brother, our dear colleague, our honored teacher, our ornament, our pride and our delight, by another nobler title. He was a Servant of the Lord. If one who leads a life of purity, fidelity, and integrity, and who consecrates, without self-seeking, his strength, his talents, his time, at home and at his laboratory, in health and in bodily infirmities, in youth and in maturity, to the interpretation of the laws by which the cosmos is governed, is a Servant of the Lord,—then reverently and truly we may say of our departed friend he was a Servant of the Lord, Maker of Heaven and Earth. Let me apply to him words of the Master, whom he was taught from childhood to revere. His "eye was single" and "his whole body was full of light."

May 20. 1901
Becq 12/1/14

THE JOHNS HOPKINS UNIVERSITY OF BALTIMORE

ANNOUNCES IN DEEP SORROW THE DEATH OF

PROFESSOR HENRY A. ROWLAND, PH. D., LL. D.,

PROFESSOR OF PHYSICS AND DIRECTOR OF THE PHYSICAL LABORATORY IN THE UNIVERSITY,

WHICH OCCURRED AT HIS HOME IN BALTIMORE,

APRIL 16, 1901,

IN THE FIFTY-THIRD YEAR OF HIS AGE.

Among other distinctions may be named:

Officer of the Legion of Honor of France.
Rumford Medallist of the American Academy of Arts and Sciences.
Draper Medallist of the National Academy of Sciences.
Matteucci Medallist, (Italian).
Recipient of the prize of the Venetian Institute, for his work on the Mechanical Equivalent of Heat.

Delegate from the United States Government to the

International Congress of Electricians, Paris, 1881.
International Congress for the Determination of Electrical Units, Paris, 1882.
Electrical Congress, Philadelphia, 1884,—President.
International Chamber of Delegates for the Determination of Electrical Units, Chicago, 1893,—President.

ADDRESS

AT THE FUNERAL OF

Mrs. Charlotte Augusta Langdon Sibley,

OF GROTON, MASSACHUSETTS,

JANUARY 25, 1902.

BY HER PASTOR,

REV. JOSHUA YOUNG, D.D.

GROTON:
1902.

ADDRESS

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Mrs. Charlotte Augusta Langdon Sibley,

OF GROTON, MASSACHUSETTS,

JANUARY 25, 1902.

BY HER PASTOR,

REV. JOSHUA YOUNG, D.D.

GROTON:
1902.

The services were held in the First Parish Meetinghouse at Groton; and the interment took place two days later in the family lot at Mount Auburn Cemetery, Cambridge.

ORDER OF SERVICES.

I. PRELUDE ON THE ORGAN.

II. SCRIPTURE READING.

III. HYMN, — "LEAD, KINDLY LIGHT."

IV. ADDRESS.

V. HYMN, — "NEARER, MY GOD, TO THEE."

VI. PRAYER.

VII. BENEDICTION.

"Part in peace, with deep thanksgiving,
Rendering as you homeward tread
Gracious service to the living,
Tranquil memory to the dead."

And may the peace of God, which passeth all understanding, be with you. AMEN.

SCRIPTURE READING.

DEAR FRIENDS: — This the change that comes. This the door that opens and all pass through, out of the unreal into the Real, out of darkness into Light, out of time into Eternity, out of death into Immortality. The sun rises out of life and sets into life; this is the sacred law. It sways to-day and it will sway to-morrow. For all men have one entrance into life and the like going out.

If a man die, shall he live again?

Behold I show you a mystery. We shall not all sleep, but we shall all be changed.

As we have borne the image of the earthy, so also shall we bear the image of the heavenly.

Whither shall I go from thy spirit?

Or whither shall I flee from thy presence?

If I ascend up into Heaven, thou art there.

If I make my bed in the under-world, behold thou art there.

If I take the wings of the morning and dwell in the uttermost parts of the sea, even there shall thy hand lead me, and thy right hand shall hold me.

When I awake I am still with thee.

Yea, though I walk through the valley of the shadow of death I will fear no evil.

For thou art with me; thy rod and thy staff they comfort me.

For we know that if our earthly house of this tabernacle were dissolved, we have a building of God,

A house not made with hands, eternal in the heavens.

So also is it written, the first Adam was made a living soul;

The last Adam became a quickening spirit.

Now this I say, brethren, that flesh and blood cannot inherit the kingdom of God.

Neither doth corruption inherit incorruption.

For this corruptible must put on incorruption,

And this mortal must put on immortality.

Then shall come to pass the saying that is written, Death is swallowed up in victory.

Thanks be to God who hath given us the victory through our Lord Jesus Christ.

Who hath abolished death, and brought life and immortality to light, through the Gospel:

Whom, having not seen, we love;

In whom, though now we see him not, yet believing we rejoice,

With joy unspeakable and full of glory.

Blessed be the God and Father of our Lord Jesus Christ, who, according to his abundant mercy hath begotten us again unto a lively hope, by the resurrection of Jesus Christ from the dead:

Unto an inheritance incorruptible, and undefiled, and that fadeth not away.

I am the resurrection and the life, saith the Lord. He that believeth in me, though he were dead, yet shall he live;

And whosoever liveth and believeth in me shall never die.

Peace I leave with you, my peace I give unto you.
Not as the world giveth, give I unto you.
Let not your heart be troubled, neither let it be afraid.

We had said, "Thou layest men in everlasting sleep;"
But lo! they sleep into everlasting waking.

The memorial of virtue is immortal;
Because it is known with God and with men.
When it is present, mankind take example of it;
And when it is gone they desire it.
It weareth a crown and triumpheth forever,
Having gotten the victory, striving for undefiled rewards.

The righteous shall be in everlasting remembrance.
Yea, blessed is the memory of the just.
Their bodies are buried in peace,
But their name liveth forevermore.
The people will tell of their wisdom,
And the congregation will show forth their praise.

ADDRESS.

DEAR FRIENDS, — Let us think of death, not as inevitable merely, but as something divine, a process of universal Love, a moment in the universal Life, as something of a piece with the setting sun and the waning moon and the falling leaf, a part of the great order, a necessary link in the universal chain which binds all being to the throne of God. So is death "pure and clean as the dew that comes with the cool night, when the sun has set; and he who in the morning hath chosen the right way may in the evening die without regret."

And, therefore, what so well becomes us who remain and have witnessed the good life, as to thank God for it, and, with faces uplifted, repeat the Christ-bestowed benediction: "Well done, good and faithful servant, enter thou into the joy of thy Lord!"

> Her youth was innocent; her riper age
> Marked with some act of goodness every day.

She gave food to the hungry, drink to the thirsty, clothes to the naked. She made her delight in doing good, and forgot no one but herself. She never preferred the great man to him of low degree. She

revered the common brotherhood; she classed mankind —

> according to life's natural ranks,
> Fathers, sons, brothers, friends — not rich, nor wise,
> Nor gifted,

but equal all in the same dependence. She was crowned with the aureole of the "passion of humanity." But let us call her sister of charity, an angel of mercy; that will offend her least, who had no ear for the music of admiration.

My acquaintance with our dear friend, Charlotte Augusta Langdon Cook, subsequently and more widely known as Mrs. John Langdon Sibley, whose mortal part — the last sad, sweet service done which love can perform for its own, and due honor paid to departed worth — we are about to commit to the restful grave, exceeds a period of fifty years.

My first introduction to her was when she was living with her widowed mother and an invalid brother in a small cottage near the border-line between Somerville and Cambridge, on one of the great thoroughfares to the near metropolis. She rose to meet me from beside the couch on which lay her brother, stricken with an incurable disease. The smile of patience on her face, the perfect naturalness of her manner, the tender, loving service she was rendering, the lowliness and yet the dignity of the whole scene stand out vividly before me as a truthful picture of the spirit and chosen way of her entire

life. From beginning to end it was a life of care and service. Retirement and simplicity were her choice; her happy days given to "the quiet tasks of good in the great world," and when — early bereft of a father's protection and later of a mother's presence and companionship — the last great grief came and the deep shadows fell, in the death of her beloved and honored husband, she sought in acts of mercy to others to lose the sense of her own sorrow. Then began, in her dear husband's name, and, as she believed, by his suggestion and guidance, what I may say was the whole business of her life, enthusiastically carried on — "without rest, without haste," namely, to distribute to the children of sorrow and suffering the entire income of the inherited estate; about which estate, its acquisition and its final disposal, a noble and affecting story might be told.

Not by hundreds, but by thousands of dollars shall the value of her yearly charities be reckoned. Far, far more than the widow's mite, she cast into the Lord's treasury — for the poor are His care — her whole living. Where she spent one dollar on herself, she put hundreds into the hand of some worthy recipient: now to help some bright boy, with aspirations beyond his means, obtain an education; now to be a staff of support to some old man, broken with the storms of life; now to assuage the bitterness of dependence where sudden reverse of fortune had come; now to pay for medical attendance and

revive drooping hope in the poor man's heart and home, who cannot afford to be sick or to buy a place for his grave; and again, to defray the funeral expenses when death, more pitiful than life, brought peace and rest.

> So passed her life —
> And far and wide her name shall be named
> With love and reverence.

I have spoken of the benefits she conferred, the acts of kindness she did as "charities," and thereby have I grievously offended against my friend's mind and heart. She did not like to have her deeds of benevolence spoken of as charities, but as obligations, or, again, as pleasures, self-pleasings. How often has she said to me: "I claim no merit, I deserve no praise in all this; I do not even know what self-sacrifice means. I fear God has not allowed me that blessed knowledge. Some find their enjoyment in gaudy apparel and a gold ring, some delight in the strength of horses and a fine equipage, others in keeping up an elegant establishment, in giving 'teas' and receptions, and displaying their rare old china. But I find my enjoyment, my pleasure, my 'sweets' of life in giving relief and comfort to those less fortunate than myself. Oh, no! it is not self-denial. It is my happiness. It is better than going to the play. My calico gown seems to me richer than the gloss and rustle of costliest satin,

when I chance to know that the naked are clothed, the cold warmed, and the hungry fed, a sobbing, suffering child soothed to sleep."

I think I may say I never knew a person more indifferent to mere personal comforts, and yet she had them — all personal comforts and more, for they were thrust upon her, so to speak; otherwise she could not have been, what she was, God's steward — almoner of His bounties.

Of her benefactions more open to the eye of observation, I need not speak in this neighborhood, in this presence. The reminder of them, the beautiful monument thereof, stands before you as you pass out of the door of this meeting-house, which itself also tells of her generosity, in yonder fine organ, which was substantially her gift to the congregation worshipping here. It is more than fitting, I may say in passing, that from all its pipes, " with voices sweet attuned," most melodious strains should sound her praise.

The parcel of land and gifts in ready money of four thousand dollars do not make up the whole sum of her contribution to the cost of our Public Library. She has probably more than doubled the sum named in gifts for the beauty and completeness of its interior furnishing. It was her delight to show her great and untiring interest in whatever could add to its proper and increasing usefulness, as well as to the care and preservation of the build-

ing. She seemed to feel that it was her special privilege to see that it was thoroughly appointed in every respect; almost as if her personal rights were invaded if her counsel and help were not sought in any plan or purpose suggested or entertained for its improvement.

Some of us desired that the Library should take her name, but for reasons that seem less wise now than they did then, the matter was neither urged nor suggested. I may be permitted to say that it was my privilege, at a meeting of the Board of Trustees, to introduce in her absence a resolution, whereby her name should be kept in perpetual remembrance within its walls. As a certain lifting of a veil that may well be drawn aside, I will here recite the resolution alluded to: —

The Board of Trustees of Groton Public Library, in the absence of their esteemed associate, Mrs. Charlotte A. Langdon Sibley, seize the opportunity to cause to be entered on their records, with grateful mention of her large-hearted and wise public spirit, their personal thanks for her recent contribution to the comfort and safety of the building, in the introduction, at her own expense of about one thousand dollars, of a new and improved method of heating it; and, in view of her large and repeated benefactions to secure to the town, *pro nobis et posteritate*, this beautiful House of Learning, be it therefore —

Resolved, with the unquestionable approbation of the public feeling, that the South and West Rooms on the

basement-floor be henceforth called Sibley Hall, to the end that her name and memory may be permanently connected with the great public Benefit on behalf of which her rare enthusiasm, manifested in numberless little acts of thoughtfulness which hide themselves, deserves, hardly less than her original donations of land and money, "a lasting monument and a long remembrance."

I need not add that the resolution was cordially adopted, and a tablet, bearing the inscription SIBLEY HALL, was at once placed on the wall opposite the door of entrance to the rooms.

The cause of education in Groton has received gifts from Mrs. Sibley, not alone in our Public Library. In ways that have attracted no observation, she has been a true and steadfast friend of our Lawrence Academy. I think I am safe in saying, no living alumnus has done for that school so much as she has been doing during the years of her residence among us.

An ounce of prevention, so runs the proverb, is worth a pound of cure. Acting on that principle, what she has done to keep the dwelling-house property in good condition, only a close observer can tell the whole interesting story of. She has, indeed, been "a builder-up of waste places," a repairer of breaches.

Of her benefactions of a certain public nature in other towns, I am not able to speak with the confidence or accuracy of personal knowledge. I do

know, however, that they have not been confined to Groton, or to one necessity.

The hospital, as well as the school, the library, and the church have shared her kindness. And again, as to her private charities, I must repeat that they were everywhere, at home and abroad. They dropped like rain from heaven on the place beneath. She scattered with both hands, and sometimes employed the hands of the pastor of more than one of our local churches.

Only God can count the sad tears that fell when it was known that this friend and helper of the poor was dead, while faces pale looked at one another, and trembling lips said, "What shall we do without her?"

Assuredly, she was a remarkably benevolent woman, a rare example of disinterested, uncalculating kindness and generosity, —

> The sweet presence of a good diffused,
> And in diffusion more intense.

Though she may never know the prayers that go up to heaven for her from sick and wretched creatures, God will hear and answer them, nay, has already bestowed the unspeakable recompense; for the ultimate reward of doing loving things in a loving spirit is the sweet memory of them.

It seems to me very proper, although I know I shall disquiet her spirit, if perchance she may be

listening, to hear what I am about to mention — caring now far less than ever before about this world's distinctions — not improper if I just allude to the circumstance of her descent from a New England ancestry of high character.

Some of the best and purest blood of Boston flowed in her veins; tissues of its best brains she had some of. It is remarkable the number of distinguished persons, especially Unitarian ministers of eminence, to whom she was akin. I will simply say that the Rev. Francis W. P. Greenwood, of King's Chapel, and John Ellerton Lodge, father of Henry Cabot Lodge, senator in Congress, were her cousins, and that to Boston's late silver-tongued orator, and fearless advocate of the rights of man — whom I am not alone in thinking she somewhat resembled in the general outlines of the face, as in fact, she was like him in the spirit of her mind — she was so closely related as this, that Mrs. Sibley's grandmother and Wendell Phillips's mother were sisters.

"But what of it?" she would say, rebukingly. "Ancestral pride is the poorest of all prides, unless one exemplifies in his own life the virtues on which it rests."

And now I have spoken so long, and yet have said nothing respecting Mrs. Sibley's marked intellectual qualities, nothing about her religious nature, her church affiliation, her sect, or her creed. It is easy to supply the omission. I might do so by say-

ing that she needed not "the changing of her sphere" to reach that purest heaven George Eliot so finely describes, and to —

> join the choir invisible,
> Whose music is the gladness of the world.

But I will respect her modesty, her humility, and only repeat, as a pleasant leave-taking of our dead, in faith and hope and love, those suggestive lines of an Eastern sage, in their best known English version: —

> Abou Ben Adhem (may his tribe increase!)
> Awoke one night from a deep dream of peace,
> And saw, within the moonlight of his room,
> Making it rich and like a lily in bloom,
> An angel writing in a book of gold.
> Exceeding peace had made Ben Adhem bold,
> And to the presence in the room he said,
> "What writest thou?" The vision raised its head,
> And, with a look made of all sweet accord,
> Answered, "The names of those who love the Lord."
> "And is mine one?" said Abou. "Nay, not so,"
> Replied the angel. Adhem spoke more low,
> But cheerly still, and said, "I pray thee, then,
> Write me as one who loves his fellow-men."
> The angel wrote and vanished. The next night
> He came again, with a great wakening light,
> And shewed the names whom love of God had blest,
> And lo! Ben Adhem's name led all the rest!

SONNENFELS UND KUDLER.

REDE

AUF

JOSEF VON SONNENFELS

UND

JOSEF VON KUDLER

GEHALTEN

AM 17. JULI 1891

BEI DER

ENTHÜLLUNG DER IN DEN ARKADEN DER UNIVERSITÄT WIEN AUFGESTELLTEN BÜSTEN DERSELBEN

VON

PROF. DR. W. LUSTKANDL.

LIBRARY OF THE UNIVERSITY OF CALIFORNIA

WIEN.

SELBSTVERLAG DER K. K. UNIVERSITÄT.

1891.

Druck von ADOLF HOLZHAUSEN in Wien,
K. UND K. HOF- UND UNIVERSITÄTS-BUCHDRUCKER.

Hochansehnliche Versammlung!

Zweimal bereits wurde in den herrlichen Räumen unserer Universität die feierliche Enthüllung von Denkmälern für Männer begangen, welche sich als glänzendste Zierden unserer Juristen-Facultät bewährt haben. Eine Trauerfeier war, wie Herr Professor Pfaff hervorhob, die erste, bei welcher das Denkmal für den dahingegangenen Staatsmann und Gelehrten JULIUS GLASER enthüllt wurde, und eine ernst-würdige Gedächtnisfeier war die zweite, das Fest der Enthüllung des Denkmals für den Gelehrten und Staatsmann FRANZ VON ZEILLER, bei welcher Herr Professor Pfaff die Festrede hielt.[1]

Heute sollen die Denkmäler von Männern enthüllt werden, welche an dieser Universität in ausgezeichneter Weise die Staatswissenschaften gelehrt haben, und die ernste Erinnerung an früher thätig Gewesene soll sich mit dem noch bebenden Gefühle für kaum Dahingegangene verbinden.

Es sollen die Ehrenbilder für JOSEF VON SONNENFELS, JOSEF VON KUDLER und LORENZ VON STEIN enthüllt werden.

Für LORENZ VON STEIN wurde an dieser Hochschule eine besondere Gedächtnisfeier bereits begangen.

Sein Wirken wurde damals von Professor von Miaskowski treffend gewürdigt[2] und bildet die heutige Enthüllung seines Denkmales hiezu nur den Abschluss.

Ich habe mich bei Erfüllung der Aufgabe, die mir zugefallen ist, wesentlich auf die Wirksamkeit von SONNENFELS und KUDLER zu beziehen. Sie standen zu einander nicht in einem schroffen Gegensatze, sondern verhalten sich wie eine theilweise Ergänzung und Fortsetzung des Berufes, sowie sie auch geschichtlich auf einander gefolgt sind. —

Sonnenfels, im Jahre 1732, gerade hundert Jahre nach SPINOZA, PUFENDORF und LOCKE, drei Jahre nach LESSING, drei Jahre vor BECCARIA, siebzehn Jahre vor GOETHE geboren,[3] hat in einer Zeit gelebt und gewirkt, welche durch IMMANUEL KANT ihre Aufschrift empfangen hat.[4]

„Nicht in einem bereits aufgeklärten Zeitalter leben wir, aber wohl in einem Zeitalter der Aufklärung," schrieb KANT.

So war es in der That. SONNENFELS war einer der lebhaftesten Herolde der Aufklärungszeit!

Nach dem Studium des Gymnasiums in Nikolsburg und den sogenannten philosophischen Studien in Wien war er eine Zeitlang beschäftigungslos und durch eingetretene missliche Verhältnisse seines Vaters gezwungen, in die kaiserliche Armee einzutreten, in welcher er durch fünf Jahre unter dem Namen „Wiener" bei den Deutschmeistern diente und es bis zum Corporal brachte.

Während dieser Dienstzeit in Südsteiermark, Ungarn und Böhmen benützte er die freie Zeit insbesondere zu Sprachstudien. Nach Besserung der Verhältnisse seines Vaters, welcher bereits am 20. Februar 1746 den Ritteradel mit dem Prädicate VON SONNENFELS erhalten hatte, durch Verwendung des Fürsten VON TRAUTSON und des Grafen VON DIETRICHSTEIN aus der Armee entlassen, widmete er sich den juridischen Studien an der Universität zu Wien, an welcher er einer der ersten und eifrigsten Hörer an der neuerbauten Aula war.[5] Seine tüchtigsten Lehrer waren der Canonist RIEGGER und der Naturrechtslehrer MARTINI, von denen er in seinen biographischen Mittheilungen selbst sagte:

„Diese in den Jahrbüchern der Nationalerleuchtung merkwürdigen Männer lehrten mich erst denken."[6]

Bei seiner emsigen Verwendung fasste er die Erlangung einer Lehrkanzel aus einem juridischen Fache ins Auge; 1755 gab er mit MATHIAS EDLEN VON HAAN ein Buch: „Specimen juris germanici de remediis juris, jure Romano incognitis" heraus.

Nebenbei besuchte er die Privatvorlesungen seines Vaters über die hebräische Sprache und veröffentlichte in dessen Werke: „Controversiae cum Judaeis" 1758 eine Abhandlung über die in den Evangelien enthaltene Erzählung von der Ehebrecherin und arbeitete als Amanuensis in der Kanzlei des Advocaten Grafen *VON HARTIG, der* auch geheimer Rath und Hofrath bei der Obersten *Justizstelle war.*

Bei Vollendung seiner Rechtsstudien sprach SONNENFELS neun Sprachen, das Liebste war ihm das Deutsche. Reines Deutsch zu sprechen, das damals in Wien bei Adel und Volk verpönt war, nahezu für protestantisch galt,[7] war seine Sehnsucht. Um gute deutsche Schriftsteller aufzusuchen, gieng er in die kaiserliche Bibliothek, wo er die von NICOLAI herausgegebenen „Briefe über die neueste Literatur", in dem durchblätterten zwölften Bande einen Aufsatz von ENGELSCHALL über das Theater und darin eine Stelle fand, die ihn in Aufregung setzte:

„Österreich hat uns noch keinen einzigen Schriftsteller gegeben, welcher die Aufmerksamkeit des übrigen Deutschland verdient hätte. Der gute Geschmack ist, wenigstens was das Deutsche betrifft, daselbst noch in seiner Kindheit, kaum noch da, wo Sachsen und Brandenburg schon um das Jahr 1730 waren. SCHEIB, SCHÖNEICH, GOTSCHED, die das ganze übrige Deutschland auspfeift, heissen daselbst noch Dichter, und dennoch ist von diesen elenden Schriftstellern kaum einer ein Eingeborener."

SONNENFELS hielt diesen Satz für eine Beschimpfung, fasste den Entschluss, diese Scharte auszuwetzen, selbst Schriftsteller zu werden, entsagte dem Rechtsstudium und widmete sich ganz der deutschen Literatur. Er wollte zunächst im Stillen arbeiten, um mit etwas Untadelhaftem vor die Welt treten zu können.

1759 kam der Sachse KLEMM in die Trattner'sche Buchdruckerei nach Wien, welcher drei Jahre später als Redacteur die Wochenschrift „Die Welt" herausgab, in welcher SONNENFELS seine ersten literarischen Versuche publicierte. Da er es bald soweit gebracht hatte, dass er die deutsche Kritik nicht mehr fürchtete, bewarb er sich um eine Lehrkanzel der deutschen Literatur, welche er aber, da sie schon besetzt war,[8] nicht erhielt.

Dem Streben nach einer schönen deutschen Sprache blieb er sein ganzes Leben lang treu; viele von ihm neugeschaffene gute deutsche Worte, die Prägnanz seiner Ausdrücke, die in ganz Deutschland anerkannte Schönheit der Sprache seiner literarischen Aufsätze, die edle Form seiner Rede, die durchsichtige Klarheit seiner gelehrten Werke, sein in vier Auflagen erschienenes Werk über den Geschäftsstil und die in ihrer Art einzige von Kaiser Josef II. vollzogene Berufung SONNENFELS' in die Gesetzgebungs-Hofcommission zum Zwecke der Achtsamkeit auf eine gute deutsche Sprache in den neu zu schaffenden Gesetzen sind die fortschreitenden Beweise dafür.[9]

Dass SONNENFELS bei diesem Bestreben der von Professor RIEGGER begründeten deutschen Gesellschaft in Wien beigezogen wurde, zu welcher auch SPIELMANN, HASLINGER, SPERGER, THUGUT, BOB und andere gehörten, ist wohl selbstverständlich; am 2. Jänner 1761 wurde er ihr Vorsteher, und obgleich die Gesellschaft nicht sehr lange bestand, hat er in ihr zuerst eine Eröffnungsrede: „Ankündigung einer deutschen Gesellschaft", dann eine Rede: „Von der Nothwendigkeit, seine Muttersprache zu bearbeiten" gehalten.

Obgleich schon verdient, konnte er es zu keiner Stellung bringen und musste die Stelle eines Rechnungsführers bei der Arçierengarde annehmen, in welcher er das Vertrauen des Generals ERNST GOTTL. FREIHERRN VON PETRASCH gewann, über dessen Anregung er 1761 ein kleines Festspiel „Das Opfer" schrieb,[10] welches von erzherzoglichen Kindern aufgeführt wurde.

Am 13. Mai 1762 hielt er in der deutschen Gesellschaft jene grosse Rede auf Maria Theresia zur Feier des fünfundvierzigsten Geburtstages derselben, welche er vorher in einer kleinen Gesellschaft im Hause des Generals von Petrasch gelesen hatte, der ihn dann dem Staatsrath FREIHERRN VON BORRIÉ empfahl.[11]

Als nun 1763 die Lehrkanzel der politischen Wissenschaften gegründet wurde, wurde SONNENFELS von diesen Männern für diese Stelle geeignet befunden, vom Staatsrathe VON BORRIÉ dem Fürsten KAUNITZ empfohlen, der Kaiserin vorgeschlagen und von der Kaiserin mit Decret vom 12. April 1763 zu der Stelle ernannt, als erster Professor der politischen Wissenschaften an der Wiener Universität und den Universitäten in Österreich überhaupt.[12]

Im November 1763 bestieg Sonnenfels die Lehrkanzel mit einem Vortrage: „Über die Unzulänglichkeit der alleinigen Erfahrungen in den Geschäften des Staates." Bald darauf veröffentlichte er eine Abhandlung: „Von dem Zusammenflusse", womit er das Wort Concurrenz im Handel übersetzte, welche eine der grundlegenden Arbeiten für seine künftigen Werke war.[13]

Mit glühender Hast hatte er sich vor Besteigung der Lehrkanzel auf das Studium der Literatur der Staatswissenschaften geworfen[14] und mit erstaunlicher Arbeitskraft setzte er die Wirksamkeit fort; ausser einer Huldigungsschrift für Kaiser Franz und Iosef II. erschien noch 1764 eine grössere Abhandlung: „Be-

trachtungen über die neun Handlungsgrundsätze Englands"; worauf er bereits 1765 den ersten Theil seines grossen Lehrbuches „Grundsätze der Polizei, Handlung und Finanz" fertigstellte und nach Allerhöchster Genehmigung der Öffentlichkeit übergab.

Neben seiner lehramtlichen Thätigkeit drängte es ihn aber auch anderweitig literarisch thätig zu sein. Am 9. December 1764 liess er durch die Buchhandlung die Anzeige von dem Erscheinen einer neuen Wochenschrift: „Der Vertraute" versenden, ohne dass er als Verfasser genannt war. Seine Erzählungen kleidete er derart ein, dass ihn ein guter Geist zur Zeit der Nacht in einen Zauberspiegel blicken lasse, in welchem er alle Geheimnisse der Stadt sehen könne. Der Gedanke erinnert an einen französischen Roman, die Erzählungen sind auch etwas leicht geschürzt, so dass der Vertraute von der Censur mit der siebenten Nummer verboten wurde.[15]

Weiterhin wendete sich Sonnenfels vom Jahre 1765 nur den ernsteren Stoffen zu. Er publicierte als Versuche in politischen und ökonomischen Ausarbeitungen drei Abhandlungen: Über die Verhältnisse des Weinbaues in Niederösterreich, über die Ursachen der schlechten Landwirtschaft in Niederösterreich und über den Wert der Maschinen. Ausserdem gab er kurz nach Vollendung des ersten Theiles seines Werkes „über die Grundsätze der Polizei, Handlung und Finanz" eine neue Wochenschrift: „Der Mann ohne Vorurtheil" heraus, zu welchem Titel er wohl durch VOLTAIRE'S Lustspiel: „Nanine, der Mann ohne Vorurtheil" die Anregung empfangen hatte. Die erste Nummer hievon erschien am 23. September 1765.[16]

Sonnenfels hat in seinem Leben noch viele Schriften zuerst anonym herausgegeben, so die Briefe: „Über die Wiener Schaubühne"; die erste Publication seines Votums und der Denkschrift an die Kaiserin Maria Theresia über die Abschaffung der Folter, welche in Zürich erfolgte; die Rede über den Tod der Kaiserin Maria Theresia, welche zuerst in Abschrift verbreitet, dann gedruckt wurde; die erste Vorlesung in dem akademischen Jahrgange 1782, die eine Lobrede auf die Regierung Kaiser Josefs war; eine Parlamentsrede Mylords* über die Aufhebung des Jesuitenordens; eine Ankündigung von neun Predigten über das Vater Unser, welche wohl durch die Wolfenbüttler Fragmente

Lessing's veranlasst sein mochte. Und umgekehrt wurden auch SONNENFELS' Briefe an KLOTZ mit einer Bemerkung über Lessing ohne seine Einwilligung und zu seinem grossen Verdrusse publiciert.[17]

Man hat Sonnenfels oft vorgeworfen, dass er manches anonym und manches gegen den ausdrücklichen Wunsch anderer publiciert hat und wurde er auch wegen einiger Publicationen, namentlich wegen jener des Aufsatzes „über die Theuerung in grossen Städten" und besonders seines Votums „über die Folter" in Untersuchung gezogen. Wenn man aber die Sache literarisch beurtheilt, so vergesse man nicht, dass gar viele nicht bloss satyrische, sondern auch hochernste Schriften zuerst anonym publiciert worden sind. So hat PUFENDORF seine Kritik über Deutschland nach dem dreissigjährigen Kriege unter dem Namen Severinus von Mozambano herausgegeben, MONTESQIEU seine Kritik über die französischen Zustände in den „lettres Persannes" und BECCARIA sein Werk „über Verbrechen und Strafen" zuerst im Jahre 1764 in Monaco anonym publiciert.[18]

Sonnenfels ist bei seinen Erfindungen für die Anonymität nicht immer sehr glücklich gewesen, indem er zum Beispiel die Bemerkungen im „Mann ohne Vorurtheil" zuerst einem Wilden aus Amerika Namens KAPA-KAUM und die Briefe „über die Wiener Schaubühne" einem gebildeten Franzosen zuschrieb, der über die feinsten Verhältnisse der deutschen Sprache und Literatur urtheilen sollte, so dass er schliesslich den ursprünglichen Gedanken beider Schriften auf die Dauer nicht festhalten konnte;[19] immer aber ist er sehr interessant und für das damalige Wien sehr wirkungsvoll.

Die Schrift: „Das weibliche Orakel" und die unter dem Titel: „Theresia und Eleonore" herausgegebenen Briefe zweier Frauen, waren für das weibliche Geschlecht bestimmt. In den letzteren Briefen macht er sich über die Frage der Anonymität selbst lustig, indem er die Frauen über das Bedenken, dass sie Schriftstellerinnen geworden seien, sagen lässt, dass man ihnen die Briefe genommen habe und damit in die Druckerei gelaufen sei. „Sollen wir zürnen?" scherzen die Frauen. „Warum zürnen so viele Schriftsteller nicht, denen, wie sie in ihrer Vorrede gemeiniglich sagen, Freunde ihre Aufsätze entwenden und wider ihren Willen zum Drucke befördern?"[20]

In den Äusserungen über die Publication seines Votums, *betreffend die Aufhebung* der Folter, äussert sich Sonnenfels selbst

in verschiedenen Zeiten verschieden und sind die Äusserungen untereinander nicht vollkommen im Einklange.[21]

Wenn wir die sachlichen Erörterungen des Sonnenfels in Betracht ziehen, so müssen wir sagen, dass sie in vielfacher Richtung höchst bedeutungsvoll sind. Sowohl in den Wochenschriften als in seinen Hauptwerken behandelt er die mannigfaltigsten und wichtigsten Fragen, und man muss staunen, mit welcher Geschicklichkeit er das, was für das Publicum im Allgemeinen ein Interesse haben kann, heraushebt und in kritischer Weise in den Wochenschriften, so namentlich im „Manne ohne Vorurtheil" darstellt, während er die ruhige dogmatisierende Darstellung den Lehrbüchern überlässt.

Einer von den Schriftstellern, deren sich viele über ihn geäussert haben, sein Biograph WILLIBALD MÜLLER[22] meint, dass Sonnenfels, wenn er ausschliesslich im literarischen Schaffen thätig gewesen wäre, noch Grösseres geleistet hätte, und dass Grund zu dem Bedauern vorhanden sei, dass ihn das Schicksal Professor und Regierungsrath werden liess. Man kann einer Entwicklung nicht vorgreifen; wenn man aber die literarische Thätigkeit ansieht und die Gegenstände, welche Sonnenfels in den Wochenschriften behandelt, mit den Gegenständen in den Lehrbüchern vergleicht, so sieht man bald, dass Sonnenfels ohne seine politischen Studien seine literarischen Arbeiten kaum hätte leisten können, so wechselseitig sich ergänzend ist oft der Zusammenhang.

Wenn Sonnenfels im „Mann ohne Vorurtheil" dem Wilden aus Amerika die Stadt zeigt, ihn über den Klumpen von Gebäuden staunen lässt, in dem keine geräumigen Gassen und nur etwas ansehnliche Plätze, sondern nur Winkel und kleine Gässchen sich befinden, wenn er von der Ehrenhaftigkeit und Schande, von der falschen Erziehung, von der Unfähigkeit der sich zu Ämtern Drängenden, von den elenden Zuständen der Bauern, der Geringschätzung des Standes der Handwerker, der Überschätzung der „Federbedienungen" und der „Kanzleiverwandten", von den schädlichen Beschränkungen der Zünfte, von der epidemischen Gnadensucht, wornach jedermann „Herr von" und ein solcher „Baron" sein will, von der Schädlichkeit der Asyle und Freistätten, von der Nothwendigkeit der Religion, von Erziehungsanstalten und Anderem bunt durcheinander spricht und mit einem förmlichen Hymnus auf die Ehe schliesst, — so sind das lauter Gegenstände, die er auch in seinen Lehrbüchern über Polizei, Handlung und Finanz

systematisch behandelt, nur dass er sie hier positiv, in der Wochenschrift aber nach verschiedenen Richtungen negativ kritisierend bespricht, weshalb der grösste Theil seiner Wochenschriften als Ergänzung zu den Grundsätzen seiner wissenschaftlichen Werke herangezogen werden kann. [23]

Ein Gebiet aber ist es, welches von den anderen Gebieten scharf unterschieden und breiter ausgeführt hervortritt, zu welchem er in den Grundsätzen der Polizei und Handlung nicht den entsprechenden Raum fand, wofür er in der Wochenschrift „Briefe über die Wiener Schaubühne von einem Franzosen" eine besondere Ergänzung schuf. [24]

Schon im „Mann ohne Vorurtheil" hat sich Sonnenfels scharf darüber ausgesprochen, dass unsere Muttersprache verachtet werde, namentlich bei den höheren Kreisen nicht zur Geltung gelange. [25] Er tritt insbesondere gegen die Roheit der Sprache auf der Bühne und gegen die rohen Gebräuche am Theater auf, insbesondere gegen die schlechten Spässe, gegen den schlechten Geschmack, gegen die ganze Partei des sogenannten grünen Hutes, welche von der Hutfarbe des Hanswurstes ihre Bezeichnung bekommen hatte, gegen die extemporierten Stücke und gegen den Hanswurst, zu deren Beurtheilung er den Kapa-Kaum in das Theater schickt und diesem Wilden die Ausarbeitung von Recensionen empfiehlt.

Er recensiert das Verhalten des Publicums, das Verhalten der höheren Stände, deren Theilnahme zur Schaffung einer Nationalbühne und eigener Nationaldichter viel beitragen könnte, betont die Wichtigkeit, welche das Schauspiel bei allen Völkern habe, erörtert die Frage, ob die Schaubühne zu einer Sittenschule zu machen sei, findet, dass eine gesittete Schaubühne für die Unternehmung, für die Schauspieler, für die Zuschauer, für den Staat keine Grille und der Staat zur Aufsicht darüber verpflichtet sei.

„Der Staat ist verpflichtet, über die Schaubühne die Aufsicht zu führen, damit sie gesittet, wenigstens damit sie nicht ungesittet sei." [26]

Es ist interessant, dass er die Censur in Bezug auf die Haupthandlung der Stücke, auf die einzelnen Theile, den Dialog, *gegen zweideutige* Handlungen aufruft und zum Unterschiede von *studierten,* das ist niedergeschriebenen, gegen die extempo-

rierten Stücke auf die literarische Censur als ein Hauptargument sich bezieht.

In einer ausgezeichneten, die Thätigkeit eines gelehrten Mannes schildernden Stelle zeigt er den Ernst und die Mühewaltung, mit welcher die Gelehrten, die Männer der Wissenschaft ihre Werke zu verfassen und jedes Wort zu überlegen genöthigt sind und stellt das Gegenbild hiezu, wie ganz leichtfertig und ohne Überlegung das leicht auf die Zunge kommende, vielleicht hässliche, vielleicht schädliche Wort auf dem Theater gestattet sei.[27] Er will nicht, dass die Censur für die Bücher aufgehoben werde, aber wenn sie für diese bestehe, so müsse sie doch für das Theater noch in höherem Masse bestehen, wo das Wort ganz unmittelbar wirkt.

Er erörtert auch die dramaturgischen Forderungen für die künstlerischen Werke, so namentlich die Forderungen der Zuschauer an den Dichter, die Frage der Einheit des Ortes, der Einheit der Zeit und der Einheit der Handlung, bei welchen positiven Erörterungen er allerdings weniger tief als der gleichzeitige LESSING in seiner Hamburger Dramaturgie griff,[28] indem er sich vorzugsweise an die französische Doctrin anschliesst, in welcher namentlich von VOLTAIRE über die dramatischen Einheiten nicht so treffend wie von Lessing gehandelt und wobei auch über Shakespeare in abfälliger Weise geurtheilt wird.

In den „Briefen über die Wiener Schaubühne“ von einem Franzosen kommen viele Besprechungen von Stücken vor; ich will daraus nur zwei Urtheile hervorheben, das eine über GLUCK, das andere über LESSING aus Anlass der Aufführungen ihrer Stücke: „Alceste“ und „Minna von Barnhelm“. „Ich befinde mich,“ schreibt der Franzose, „in einem Lande der Wunderwerke, ein ernsthaftes Singspiel ohne Kastraten, eine Musik ohne Solfezieren, oder, wie ich es lieber nennen möchte, ohne Gurgelei; ein wälsches Gedicht ohne Schwulst und Flitterwitz und vielleicht das Beste von Allem die erste Sängerin des wälschen Singspiels eine geborene Deutsche;“ und er spricht dann über die Musik und Compositionskraft des GLUCK: „Die Musik in den Händen eines Mannes, der die Tonkunst nicht bloss in einer studierten Reihe von Accorden und Auflösungen bestehen lässt, sondern die Accente der Leidenschaften, und, wenn ich mit Genehmigung der musikalischen Solone sagen darf, die Accente der Seele aufzufinden und dadurch den Gesang ausdrucksvoll und redend zu

machen weiss, in den Händen eines Mannes, der mit dem Geiste des Dichters selbst da, wo musikalische Handwerker von der gemeinen Regel gefesselt sind, sich über die Regel hinwegsetzt und mit der Freiheit des Genies selbst Regel und Muster wird; in den Händen eines solchen Mannes muss die Musik Wunderwerke thun", — und, indem er auf die einzelnen Theile eingeht und hervorhebt, wie organisch, wie zusammenstimmend alle Theile, wie jeder Theil eine Schönheit für sich und das Ganze zusammen eine Vollendung sei, erklärt er: „Die Einbildungskraft des GLUCK ist eine ungeheuere, daher sind ihm die Schranken aller nationalen Musik zu enge, er hat aus der wällischen, französischen, aus der Musik aller Völker eine Musik gemacht, die seine eigene ist, oder vielmehr, er hat in der Natur alle Töne des wahren Ausdrucks aufgesucht und sich derselben bemächtigt. — Ich werde durch die Wirkung, welche die zieratlosen Schlussfälle der Gluck'schen Gesänge auf mich gemacht haben, beherzt, mich künftig laut gegen die gekräuselten Ausgänge der wälschen Arien zu erklären, wogegen ich im Geheimen schon lange mich empört habe." [29]

War er so gewissermassen schon von musikalischen Strömungen unserer gegenwärtigen Zeit erfüllt, so ist das Urtheil über LESSING vielleicht noch interessanter.

Ich hebe dieses Urtheil insbesondere darum hervor, weil man ihm vorwirft, dass er der Hauptgegner des Lessing und die Ursache gewesen sei, dass Lessing nicht nach Wien berufen wurde.

In den Briefen der EVA KÖNIG, der Braut des Lessing, wurden allerdings anfänglich einige solche Bedenken ausgesprochen, allein in den späteren Briefen der Frau König lebt das Vertrauen zu Sonnenfels wieder auf, und, wenn man alle seine Schriften durchgeht, so gewinnt man die Überzeugung, dass Sonnenfels an der Nichtberufung des Lessing, die ja vielleicht schon wegen der Wolfenbütteler Fragmente und aus anderen Gründen in Wien keinen vollen Anklang fand, nicht Schuld trägt. Wie hoch er ihn als Autor schätzt, geht aus seiner Recension über „Minna von Barnhelm" hervor: [30]

„Corsaires attaquent corsaires,
Ne font pas leurs affeures"

sagt Despreaux von seinem Vorgänger Regnier.

„Vielleicht sollte ich es nachsprechen und die ‚Minna von *Barnhelm' oder das ‚Soldatenglück'* nur obenhin mit einigen Lob*sprüchen abfertigen.* Aber der Mann verdient etwas mehr als

einen obenhin fahrenden Lobspruch. Die deutschen Theaterdichter möchten immer lieber seine Minna, als unsere französischen Stücke studieren."

„LESSING hat in der Geschichte der deutschen Literatur von mehr als einer Seite einen berühmten Namen, besonders aber hat er die Schaubühne mit feinen und schönen Lustspielen bereichert."

„Die Veranlassung des Stückes ist die edelmüthige Handlung eines menschenfreundlichen Officiers, welche ein ebenso edelmüthiges Mädchen durch Herz und Hand zu belohnen den Vorsatz gefasst hat. Man sagt, die Begebenheit habe sich wirklich ereignet. Dann war sie würdig durch ein glückliches Genie auf die Bühne gebracht und durch alle Reize der Dichtkunst zur Nachahmung aufgestellt zu werden."

Sonnenfels erzählt nun den ganzen Verlauf der Handlung, schildert die einzelnen Charaktere, von denen jeder rechtschaffen und doch jeder in einer anderen Form das Leben führt, und kommt zu dem Urtheile: „Lessing hat eine so magere Geschichte zu seinem Vorwurfe gewählt, dass er Lessing sein musste, um darin den Stoff zu fünf Aufzügen zu finden. Der einzige Riccaut de la Marlinière scheint dem Sonnenfels überflüssig zu sein, da Lessing solche das Lachen erregende Figuren nicht brauche.

Mit Beziehung auf die von Bielefeld versuchte französische Übersetzung von Miss Sarah Sampson LESSINGS bemerkt Sonnenfels: „Die Schönheiten dieses Originalschriftstellers sind gewissermassen unübersetzlich, und was ihn über alle Theatraldichter seiner Nation hauptsächlich hinwegsetzt, ist der Dialog. Dieser ist es, worin Minna noch alle vorhergehenden Stücke übertrifft."

Über die Frage, ob er denn doch gar keinen Tadel finde, bemängelt er zwei Stellen,[31] aber dies thut seinem Lobe keinen Eintrag, denn er fasst sein Urtheil über die Vorzüge des Lessingschen Stückes dahin zusammen:

„Nun aber ausser diesen... finden Sie in dem Stücke durchaus, nicht etwan nur die Molièrische Manier im Dialogieren, sondern die grosse Manier der Alten, denen Molière die seinige abgesehen hat — die glückliche Geschicklichkeit, die Unterredung ungezwungen herbeizuführen, — die einsichtsvolle Vertheilung des Stoffes zwischen den unterredenden Personen — die jeder Person gemäss ihrer Denkungsart in den Mund gelegten Worte, woraus die Mannigfaltigkeit des Tones entspringt, durch den die Unterredung Leben erhält — Natur im Ausdrucke, Adel der Gesinnungen, ohne spruchreich zu sein, ohne zu schwellen, und wieder Einfach-

heit ohne Niedrigkeit, und durchaus eine gelenksame, man darf sagen, von ihm selbst geschaffene Sprache."

Es wird noch betont, dass Lessing in einem weiten Umkreis athmet, seine Sprache sei die des Weltmannes, der eine Politesse mit dem Worte und gleichsam nur auf dem Wege mitnimmt, wodurch er den Firniss einer feinen Lebensart über seine Gespräche zieht, und das Geprängmässige, welches so eigentlich die Kleinstädterei verräth, vermeidet.

„Beispiele von jedem? ja! wenn nicht das ganze Stück ein Beispiel wäre! Sie müssen dasselbe also ganz lesen, und mit anderen Stücken der deutschen Schaubühnen vergleichen, um meine Beurtheilung zu rechtfertigen."

Es hat wohl kaum jemand über die Dichtung des deutschen Lessing herrlicher geurtheilt als des Sonnenfels erdichteter Franzose, und nur Lessing selbst hat seinen eigenen Styl noch schärfer erklärt![32]

Eine interessante Episode über die Begegnung SONNENFELS' mit BEAUMARCHAIS, bei welcher Sonnenfels als eine Art diplomatischer Agent commissionierte, wird von ALFRED VON ARNETH in pikanter Weise geschildert[33] und eine nicht minder wichtige Begebenheit für Sonnenfels war Goethes Recension der Schrift: „Über die Liebe des Vaterlandes".

Sonnenfels hatte in der Theresianischen Akademie an die Jugend eine Rede über die Liebe zum Vaterlande gehalten, und dieselbe umfangreich erweitert herausgegeben. Dieselbe wurde von GOETHE in den von seinem Freunde MERCK herausgegebenen „Frankfurter gelehrten Anzeigen" einer scharfen Recension unterzogen, so scharf, dass sie dem Urtheile, welches GOETHE zu jener Zeit über manch andere deutsche Schriftsteller fällte, nahezu noch den Vorrang abgewinnt.[34]

Es war das zur Zeit, wo die kritische Schärfe Goethes am stärksten hervortrat und wo er bekanntlich auch seine Satyre: „Götter, Helden und Wieland" schrieb. Es ist nun allerdings wahr, dass Sonnenfels diese an die Jugend gehaltene patriotische Rede zu einer übermässig ausgedehnten doctrinären Abhandlung gemacht und vielfach überladen hatte. Es kommen aber auch viele sehr wichtige Gedanken darin vor, namentlich in dem Theile über die Gesetze.

Wenn er darin von der Gleichheit der Bürger, von der Un*zulässigkeit der Be*freiung einzelner Classen von Abgaben, vom

öffentlichen Verfahren, namentlich im Strafprocesse, von der Nothwendigkeit der genauen Erhebung der That, von der Verbesserung der Gefängnisse und anderen Fragen handelt, und wenn er hervorhebt, dass diesen Ansprüchen nicht genüge geschehen könne als durch die Abschaffung der geheim gehaltenen Untersuchung,[35] so sind das lauter wichtige Fragen der Rechtswissenschaft, welche von ihm bereits zu einer Zeit besprochen wurden, bevor noch FILANGIERI'S Werk: „La scienza della legislazione" geschrieben wurde, welches erst im Jahre 1780 in Neapel erschien.

Es waren dies Fragen, die sich insbesondere auf das Recht und den Process beziehen, und wir sind damit zu einem Thema gelangt, welches man wohl als eines der wichtigsten Ereignisse in der Geschichte Sonnenfels' bezeichnen kann, auf seine Stellung in der Frage der Abschaffung der Folter oder Tortur.

Romane, Dramen und Feuilletons haben sich mit diesem Gegenstande beschäftigt, sagt Willibald Müller in seiner Biographie des Sonnenfels, so dass die Wahrheit durch das triebkräftige Blätterwerk der Legende gedeckt erscheint. Dem ist wohl so.

Der wahre Thatbestand wird am besten in der Abhandlung: „Sonnenfels und Maria Theresia" von JOSEF FEIL in den Sylvesterspenden von 1859 und in der Geschichte des österreichischen Staatsrathes von FREIHERRN VON HOCK geschildert.[36]

Schon im Jahre 1767 erschien ein gedrucktes Heft, welches 65 Lehrsätze enthielt, die der Einleitung in die Staatswissenschaft und den Grundsätzen über Polizei, Handlung und Finanz entnommen waren.

EDLER VON KEES hatte es übernommen, dieselben öffentlich im Hörsale zu vertreten,[37] darunter die wichtigsten Gegenstände, die zu vielfachen Erörterungen Veranlassung gaben:

„Das ebenmässige Verhältniss aller Stände unter sich und gegen den Staat wird durch das Überwuchern des Reichthums, der Grösse, Ausbreitung, Freiheiten und Vorzüge eines Standes verletzt."

„Der rechtmässigen Eigenthumserwerbung müssen daher, wo kein Abfluss, keine Theilung und Zergliederung stattfindet, wie bei Majoraten, Grenzen gesetzt werden. Diese Grenzsetzung soll nicht durch Gewalt, sondern durch sanftere Mittel stattfinden,

indem man die betreffenden Besitzer zur Übernahme von öffentlichen Unternehmungen, Kirchenbauten u. dgl. heranzieht.

„Ausnahmen von Gesetzen zu machen, sei eine Schwächung derselben, einem Bürger oder Stande Vorrechte vor anderen Bürgern zu gewähren keine schickliche Art der Belohnung des Verdienstes. — Die Untersuchungskerker seien nicht mit empfindlichen Ungemächlichkeiten zu vereinbaren. — Die Tortur sei ein ungerechtes Mittel zur Überführung des Beschuldigten.

„Der Tod sei selten eine angemessene Strafe des Todschlages." —

Diese und ähnliche Sätze hatten die böhmische und österreichische Hofkanzlei zur Prüfung und zum Einschreiten dagegen veranlasst; die Studienhofcommission machte deshalb einen Vortrag an die Majestät und auch der Erzbischof erhob Klage gegen Sonnenfels.

Der Erzbischof Migazzi hatte schon infolge der im „Mann ohne Vorurtheil" erschienenen Artikel gegen das kirchliche Asylrecht Beschwerde bei der Kaiserin erhoben, worüber die Kaiserin am 23. Jänner 1767 resolviert hatte: „Da der hiesige Cardinal Erzbischof mir seine Beschwerde über das vierte Stück des Sonnenfels'schen Wochenblattes, welches von dem Jure Asyli handelt, eingereicht hat, so ist dem gedachten Sonnenfels ernstlich zu bedeuten, dass er sich von Materien, welche in die geistlichen und Staatsrechte einschlagen, in den Wochenblättern zu schreiben enthalten soll.[38] Imgleichen ist der Bücher-Censurscommission zu erinnern, dass sie diesen irrigen Satz habe passieren lassen." Gegen diese Erinnerung hatte Freiherr van Swieten bei der Kaiserin Einwendung erhoben, worauf die Bemerkung gegen die Censurscommission fallen gelassen wurde: „denn kein irriger Satz es war, wohl aber nicht conveniert."

Gegen die öffentlich zur Disputation gebrachten Sätze bemerkte der Cardinal: „Dass schon das Grundprincip der Sonnenfels'schen Lehre, der Reichthum eines Staates beruhe in der Bevölkerung gegen die Lehren des Christenthums, gegen die evangelischen Rathschläge und gegen das Cölibat der Priester verstosse" und schloss seine Beschwerde mit der dringenden Bitte, diesen Übergriffen des Sonnenfels Einhalt zu thun.[39]

Mit allerhöchster Entschliessung vom 26. Juli 1767 wurde von der Kaiserin angeordnet: „Die Kanzlei habe den Sonnenfels *in terminis* generalibus mit einem Decrete anzuweisen, damit derselbe seine allzu grosse Freiheit überhaupt gehörig mässige und

beschränke, in den Lehrsätzen und Streitfragen jener Bescheidenheit und Überlegung sich bediene, welche von ihm und seinem bekleideten Lehramte billig gefordert werden kann. Zu diesem Ende sei der Censurcommission der Auftrag zu geben, dass sie alle seine Aufsätze, folglich auch die Theses genau prüfe.“ Zugleich wurde dem Sonnenfels aufgetragen, alle Theile seiner Vorlesungen, wenigstens die blossen Sätze zu entwerfen, und zu überreichen.

Sonnenfels hatte bald darauf der Kaiserin seine Lehrsätze aus der Polizeiwissenschaft und eine Abhandlung über die zu vermindernde Bevölkerung der Residenzstadt Wien überreicht. Dieselben wurden dem Obersten Kanzler Grafen CHOTEK und der Hofkanzlei zur Äusserung zugewiesen.

Die Hofkanzlei beantragte einige Abänderungen in der Form mehrerer Lehrsätze, namentlich über die Verminderung der willkürlichen Feiertage, über Einschränkungen in Verhängung der Todesstrafe, über Beschränkung persönlicher Privilegien, dann die Ausscheidung des in das Gebiet der Rechtsgelehrsamkeit gehörigen Lehrsatzes gegen die Anwendung der Tortur und gegen die Abhandlung über die Theuerung der Hauptstadt Wien.

In der hierüber erfolgten Allerhöchsten Erledigung vom 17. November 1767 erklärte die Kaiserin:

„Placet, wie eingerathen worden, und können die Lehrsätze unter denen von der Kanzlei und von der Censurscommission an Hand gelassenen Veränderungen gedruckt werden, jedoch ist die beigelegte Abhandlung als unschicklich platterdings zu verwerfen und keineswegs unter meinem Schutz dem Publico vorzulegen.“ Maria Theresia.

Sonnenfels hatte gegen die wegen der disputierten Sätze empfangene Rüge eine Vorstellung erhoben, in welcher er alle Punkte, die ihm vorgeworfen worden waren, genau auseinandersetzte und namentlich eine Entscheidung darüber sich erbat, wie er sich in seinem öffentlichen Lehramte verhalten soll. Die allerhöchste Entscheidung lautete:

„Ad primam ist Sonnenfels zu verbescheiden, dass er nach jenen Grundsätzen, welche er für die echten hält, arbeiten, die beiden Abhandlungen aber, ehe solche zum Drucke befördert werden, denen betreffenden Stellen zur Einsicht übergeben solle; ferner ad secundam, dass er in den Fällen, wo die Anstalten in dem Staat mit den theoretischen Grundsätzen übereinstimmen, die Beispiele und die diesfälligen Gesetze beifügen solle; und was die

dritte Frage anbelangt, da hat zwar die Schulfreiheit einzutreten, doch aber hat sich der Lehrer jederzeit einer vernünftigen Mässigung zu gebrauchen."[40] Maria Theresia.

Die Hofkanzlei hatte bald Veranlassung, neuerdings gegen Sonnenfels aufzutreten. Sonnenfels hatte die als unschicklich bezeichnete Abhandlung über die zu vermindernde Bevölkerung der Residenzstadt unter dem Titel: „Über die Theuerung in Hauptstädten und dem Mittel derselben abzuhelfen" mit einer „stachlichen" Vorrede, in welcher er den Vorgang gegen die Abhandlung als eine Willkür der Censur zu charakterisieren gesucht hatte, in Leipzig drucken lassen. Die Hofkanzlei trug einverständlich mit der Büchercensurscommission auf Unterdrückung des Buches an.

Die Kaiserin übertrug das Urtheil dem JOSEF, der bereits Mitregent war. Die erst nach längerer Zeit, am 2. September 1769 erflossene Allerhöchste Entschliessung lautete:

„Das Buch ist mit Hinweglassung der anstössigen Vorrede zu passieren." JOSEF COR.[41]

Sonnenfels hatte inzwischen den zweiten Theil seines Lehrbuches: „Grundsätze der Polizei, Handlung und Finanz" der Kaiserin überreicht.

Am 25. November 1769 erfloss darüber vom Mitregenten folgendes Allerhöchstes Handbillet an den Grafen Chotek:

„Dem Sonnenfels ist mein Wohlgefallen über die von ihm mit gleicher Gründlichkeit und Deutlichkeit verfassten beiden ersten Theile seines von Mir allen Kanzeln der Polizei- und Cameralwissenschaft vorgeschriebenen Lehrbuches durch ein Decret zu erkennen zu geben, mit dem Beisatze, wie ich mich zu Ihm versehe, dass er ebenfalls den dritten und letzten Theil, das Finanzwesen betreffend, in dem eingetretenen akademischen Lehrjahr zu Stand zu bringen beflissen sein werde."[42] JOSEF COR.

Da der Kampf gegen ihn, wegen seiner Lehre der Aufhebung der Tortur und Einschränkung der Todesstrafe, nicht aufhörte, und da er nach dem Ableben des Grafen Chotek einen grösseren Erfolg von der Kaiserin sich versprach, so wagte er den kühnen Schritt, der Kaiserin Maria Theresia eine Vorstellung über die Aufhebung der Folter unmittelbar zu überreichen.[43]

In dieser Vorstellung über die Aufhebung der Folter, „der *peinlichen Frage*", und der Todesstrafe wehrt er sich zunächst

gegen die Vorwürfe des zuletzt an ihn ergangenen Decretes. Er suchte zu widerlegen, dass diese Lehren den Rechten und guten Sitten zuwiderlaufen, dass sie an sich selbst anstössig seien, und dass ihm dieselben vorzutragen verboten sei, da er doch ermächtigt sei, alle Grundsätze, welche er für die echten hält, auch vorzutragen.

In der Denkschrift selbst berief er sich auf viele Vorgänger, welche die Aufhebung der Tortur bereits vor ihm gefordert haben, auf GROTIUS, BODINUS, ST. REALS, MONTESQUIEU, BECCARIA und andere, sowie auf „öffentliche Zeitungen, in welchen ihre Abschaffung bald in diesem, bald in jenem Reiche bemerkt und die Weisheit und Menschenfreundlichkeit der Regenten bei einem solchen Schritte an das Gestirn erhoben wird. Diese Bücher stehen beinahe in jedem Privatschranke. Die Zeitungsblätter sind täglich in den Händen des Schreiners und Kannegiessers, und noch nie ist es jemandem beigefallen, sie darum als anstössig daraus zu reissen."[44]

Das erste ausführliche Werk über die Aufhebung der Tortur ist das Werk von AUGUSTIN NICOLAS aus dem Jahre 1682; aber schon vor ihm hatten GROTIUS und BODINUS dagegen sich erklärt.[45]

Sonnenfels nun trägt die Nothwendigkeit der Aufhebung der Tortur mit ungemeiner Wärme vor und zugleich verbreitet er sich auch über die Frage der Todesstrafe, welche er aber nicht überhaupt, sondern nur in den meisten Fällen aufgehoben haben will: „Ich missbillige nicht alle Todesstrafen; wo der Rädelsführer bei einer Empörung gefunden wird oder wo immer die Vertheidigung der öffentlichen Sicherheit den Tod des Missethäters unumgänglich nothwendig macht, da soll die Gerechtigkeit das Schwert zücken." Er habe die Frage überhaupt nur vom Standpunkte der Zweckmässigkeit untersucht.

Bezüglich der Folter beruft er sich auch auf MARTINI, der in seinem „Jus civitatis"[46] sagt: „Hinc tortura generatim remedium veri eliciendi ineptum est, adeoque etiam illicitum," und apostrophiert dann die Kaiserin: „So viele Gelehrte aller Zeiten, ein GROTIUS, BECCARIA, das Verfahren des alten Rom, die Nachfolger mehrerer Gesetzgeber unseres Jahrhunderts und der Beifall, womit Europa sie gekrönt, so viele, wo nicht unwiderlegbare wenigstens noch unwiderlegte Schriften, sollen diese nicht zum mindesten einen gegründeten Zweifel erwecken? Geruhen Eure Majestät eine Untersuchung einzuleiten, wobei die Vertreter der Folter und Todesstrafe, wo sie immer sind, ihre Gründe vorlegen und dasselbe dann auch mir zu thun erlaubt sein möge."

Seit den sensationellen Mittheilungen von VOLTAIRE, DIDEROT und BECCARIA über die Missbräuche der Tortur und über die Justizmorde von Calat und anderen, und insbesondere seit der Cabinetsordre FRIEDRICH II. von 1740 über die ausnahmsweise Zulassung der Folter bei Majestätsverbrechen, grossen Mordthaten und bei nicht anders zu inquirirenden Complicen waren die Justizverwaltungen auf eine grössere Schonung und Behutsamkeit bei der noch immer für nöthig erachteten Torquirung des leugnenden Inquisiten bedacht.

Diese Verhältnisse werden insbesondere von WAHLBERG in seinen Abhandlungen zur Geschichte der Strafrechtswissenschaft in Österreich dargestellt.[47]

Die Kaiserin übergab diese Denkschrift des Sonnenfels dem Obersten Kanzler GRAFEN VON BLÜMEGEN mit dem Ersuchen, ein Gutachten über die Rechtfertigungsschrift des Sonnenfels zu verfassen. Graf Blümegen erklärte, die Publication so kurze Zeit nach der Theresiana empfehle sich nicht, das, was Sonnenfels über die Folter mittheile, sei indessen vollkommen richtig.

Eine Begebenheit, welche in jener Zeit vorkam, ein grosses Aufsehen erregender Fall, wo ein Cassavorstand durch einen früheren Diener, der sich in der Nacht allein hatte einschliessen lassen, des Diebstahls verdächtigt und angeklagt worden war und auch gefoltert werden sollte, der aber über Majestätsgesuch einen Aufschub erhalten hatte, bei welcher Gelegenheit sich begab, dass kurz vor Schluss dieser Frist der Dieb in einem Wirthshause in der Vorstadt, gerade als er Hochzeit halten wollte, vom Polizei-Obercommissär von Wien angetroffen wurde,[48] und ein anderer Fall, bei welchem einem Gefolterten eine Hand ausgerissen worden war und die Folter unterbrochen werden musste,[49] hatten zu neuen Untersuchungen über die Frage Anstoss gegeben.

So kam es, dass MARIA THERESIA am 19. November 1773, durch Anregung der medicinischen Facultät in Wien veranlasst, in die Abschaffung der Intercalartortur (der unterbrochenen Tortur) willigte und die Wiederaufnahme der Berathungen über die Frage, ob nicht die Tortur gänzlich aufzuheben oder zu beschränken und durch welche andere Vorkehrungen sie etwa zu ersetzen sei, befahl.

Es wurden die Landesregierungen von Böhmen, Niederösterreich und Oberösterreich gefragt, und nun hatte SONNENFELS als *Regierungsrath* bei der niederösterreichischen Landesregierung *Gelegenheit,* sein Urtheil abzugeben. Er erstattete gegen den

Referenten ein Separatvotum über die Aufhebung der Folter, in welchem er mit Auseinandersetzung aller Gründe für und gegen die Folter zum Schlusse kam: „Die Folter sei in allen Fällen aufzuheben mit Ausnahme des Falles, wenn ein Verbrechen begangen worden sei unter Mitwirkung von Complicen, der Hauptschuldige bereits des Thatsächlichen überwiesen und kein Zweifel sei, dass er der Schuldige sei, und nun dieser Schuldige, über seine Complicen befragt, diese anzugeben sich weigert.“ „Wenn von der Folter zur Entdeckung der Mitschuldigen die Frage aufgeworfen wird, dann stellen sich der schützenden Gerechtigkeit diese Bedenklichkeiten nicht mehr in den Weg.“[50] Und er polemisiert gegen BECCARIA, welcher auch diesen Vorbehalt beseitigt wissen wollte und die Aufhebung der Folter, sowie der Todesstrafe überhaupt verlangt hatte. Sonnenfels antwortete darauf merkwürdigerweise, indem er seine Meinung aufrecht hielt; „Über diesen Punkt einen Übelthäter zu peinigen, der sich zum gutwilligen Geständnisse nicht bequemen will, däucht mich, ist so viel Recht als Sicherheit vorhanden.“[51]

Diese Meinung wurde von den Mitgliedern der Gesetzgebungshofcommission in Österreich späterhin nicht getheilt. Das Votum, welches kaum abgegeben war, wurde, noch bevor die Berathung über die Aufhebung der Folter zum Abschlusse kam, in Zürich publiciert[52] und darüber abermals eine Untersuchung gegen Sonnenfels gepflogen. Es waren in diesem Falle die literarischen Ansichten des Sonnenfels, die Ansichten eines Schriftstellers, mit dem bureaukratischen Gesetze der Beobachtung des Amtsgeheimnisses in Widerstreit gerathen, aus welchem Sonnenfels sich schwer ziehen konnte, er musste denn auch eine Rüge darüber hinnehmen. Man warf ihm namentlich vor, dass er aus Eitelkeit und Ruhmsucht die Publication veranlasst habe.

Über Antrag der Commission, von welcher er vernommen worden war, wurde ihm am 9. October 1775 über kaiserliches Decret von der Obersten Justizstelle folgende Verwarnung zugefertigt: „Ihre Majestät hätten missfällig vernommen, dass das von ihm über die Tortur bei der Regierung abgelegte, seinem eigenen Geständnis nach mehreren Personen mitgetheilte Votum separatum in Druck erschienen; wollten zwar die von ihm beschehene Mittheilung vor dieses mal blos als ein übereiltes und ruhmsüchtiges Betragen ansehen, jedoch hätte derselbe die secreta consilii in Hinkunft besser zu verwahren und bei schärferer Ahndung sich zu enthalten, sein Votum anderen lesen zu lassen.“[53]

Mag man nun auch Sonnenfels in diesem Falle und auch in manch anderen Fällen der Eitelkeit und selbst des Eigendünkels zeihen, so kann man doch nicht leugnen, dass er in allen diesen Arbeiten und Bestrebungen von patriotischem Geiste geleitet war, man kann ihm nicht in Abrede stellen: er war ein literarischer Patriot, dessen Arbeiten für die Zeiten der Maria Theresia und des Kaisers Josef einen Glanz für Österreich bedeutet haben.

Die Frage der Folter wurde nun im Staatsrathe zu Ende geführt; sie kam nicht leicht zum Abschlusse, einige Räthe waren für, einige gegen die Folter.

Am 12. August 1775 schrieb JOSEF II.: „Ich muss bekennen, dass ich die Aufhebung der Tortur nicht nur als ein billiges und unschädliches, sondern auch als ein nothwendiges Mittel ansehe. Ich wäre also ohne Scheu mit Auslöschung derselben aus der Nemesi Theresiana vorzugehen einverstanden."

Die Kaiserin befand sich in drückendem Zweifel; sie übertrug die Entscheidung ihrem Sohne: „Ich ersuche den Kaiser, der die jura studieret hat, noch mehr auf dessen Billigkeit, Einsicht und Menschenliebe trauend, er möge dieses Werk decidieren ohne meine ‚Consilia'; ich es gar nicht verstehe, nur nach denen mehreren Stimmen decidieren könnte."

„Dies verhindert nicht, dass ein oder anderer fremder Rechtsgelehrte noch könnte consultiert werden, wenn dem Kaiser Zweifel übrig bliebe." Der Kaiser fällte nicht gleich die Entscheidung. Es wurde vielmehr eine neuerliche Berathung in einer gemischten Commission eingeleitet, zu welcher Graf HATZFELD und drei andere Mitglieder des Staatsrathes, KRESSL, GEBLER und LÖHR, dann der Präsident der obersten Justizstelle Graf ZINZENDORF mit drei Räthen derselben, Graf STAMPACH, Wenzel von KRONENFELS und Mathias Wilhelm HAAN berufen wurden. Aber auch jetzt wurde keine Einigung erzielt, die Stimmen waren gleichmässig vertheilt. Graf HATZFELD und die drei Räthe der Obersten Justizstelle waren für die Beibehaltung, ZINZENDORF und die drei Mitglieder des Staatsrathes für die Abschaffung der Folter; die Kaiserin wandte sich neuerdings an den obersten Kanzler Grafen BLÜMEGEN, welcher sich der Meinung des Kaisers für die Aufhebung anschloss, und mit Ermächtigung der Kaiserin rescribierte der Kaiser am 23. December 1775:

„Die peinliche Frage ist nach dem in mehreren Staaten vor*angegangenen* Beispiele ohne Vorbehalt allgemein aufzu*heben, dessen* sämmtliche Gerichtsbehörden in allen meinen

deutschen Erbländern mit Inbegriff des Banates und Galiziens zu ihrer Nachachtung zu verständigen sind."[54]

In dem Fragmente eines Briefes an einen berühmten Gelehrten, welcher dem Sonnenfels von der italienischen Übersetzung seines Votums durch Abbate Amoretti und von RICCIS Bekämpfung seiner Meinung über die Mitschuldigen geschrieben hatte, erklärte Sonnenfels, dass er auf eine Entgegnung verzichte:

„Und wie gerne feiere ich mit der Menschheit den Sieg, welchen die niederländischen Gerichtshöfe, deren Meinung der Beitritt Josefs das Übergewicht gab, über meinen Kleinmuth davongetragen haben! Wie verehrungswürdig ist die Besorgnis THERESIENS, der es weniger bedenklich schien, die Richterstühle in einigen Umständen unwissend bleiben, je zuweilen einen Mitschuldigen entkommen zu lassen, als je zuweilen einen Unschuldigen der Gefahr des Missbrauches der Folter ausgesetzt zu wissen."[55]

Wie sehr dem Sonnenfels der Rechtsschutz der Unterthanen am Herzen lag, wird auch speciell noch durch eine grosse Schrift von ihm bewiesen, worin er die Frage der Stimmeneinhelligkeit über die Schuld eines Verbrechers behandelt; das war ein Lieblingsgedanke von ihm, dass in Criminalfällen der Schuldspruch, und zwar über die Frage der Schuld oder Unschuld, sowie die Frage der mildernden oder erschwerenden Umstände durch Stimmeneinhelligkeit hergestellt werden sollte, das Mass der Strafe aber sei zulässig zu bestimmen durch Majoritätsbeschluss.

Es ist dies ein ausführliches Werk, welches von ihm 1801 und in zweiter Auflage 1808 erschien.[56]

Mit diesen Bemerkungen haben wir schon einen Theil seiner Lehrbücher vorweggenommen; reichhaltiger aber, und für die gesammten Staatswissenschaften wichtiger sind diese Lehrbücher überhaupt und namentlich in Bezug auf die eigentlichen Aufgaben der Polizei, Handlung und der Finanzwissenschaft. Es ist interessant, dass SONNENFELS unter dem Namen Handlung alle Zweige der gesammten Volkswirtschaft verstand, so dass schon in dieser Überschrift ersichtlich wird, in welcher Richtung er namentlich anfänglich sich befand, und dass er hauptsächlich von der Lehre der Mercantilistenschule ausgieng, obwohl er darin nicht vollständig befangen blieb.

„Für die Entwicklung deutscher Nationalökonomik, sagt ROSCHER,[57] lässt Sonnenfels sich am besten so charakterisieren,

dass sein Standpunkt wesentlich an Justi'sche Gedanken erinnert, dass er aber fast in jeder Hinsicht dessen Gedanken systematischer zu begründen und ihre Folgerungen auszuführen weiss."

Es ist aber nicht Justi allein, es sind insbesondere auch MONTESQUIEU und ROUSSEAU, TURGOT, BIELEELD und FORBONNAIS, auf welche er seine allgemeinen Anschauungen gründet und eine Reihe seiner speciellen Ausführungen aufbaut.

Sein Hauptgrundsatz in der Lehre von der Bevölkerung war der, dass durch die Vermehrung der Bevölkerung für alle Zweige der Staatswirtschaft am besten gesorgt wird.

„Von jener Populationistenschule," schreibt ROSCHER, „die nach der Mitte des 18. Jahrhundertes gleichsam als eine verbesserte Auflage des Mercantilsystems gelten kann, ist SONNENFELS in Deutschland unstreitig der bedeutendste Vertreter."

Die allgemein politische Ansicht von Sonnenfels ist ein theoretisch lose begründeter, vorzugsweise durch philanthropische Ideen gemilderter Absolutismus; seine Anschauung ist die Idee des aufgeklärten Polizeistaates; an der Regierungsform ist ihm nicht so viel gelegen als an den Menschen: „Diejenige Regierung," sagt er, „welche am besten verwaltet, ist die beste." Wir werden allerdings am Schlusse unserer Betrachtung erkennen, dass er auch diesem Gedanken eine Einschränkung gab.

In der Darstellung der Gesellschaftsordnung baut er etwas widerspruchsvoll zunächst auf ROUSSEAU, indem er die Lehre von dem Gesellschaftsvertrage nahezu wörtlich annimmt; dann aber dennoch erklärt, dass der natürliche Zustand des Menschen der Zustand in der Gesellschaft sei.[58]

„Der einzelne Mensch ist nicht der Mensch im Stande der Natur: sein Stand wäre ein Stand der beständigen Unbehilflichkeit." — „Der natürliche Zustand des Menschen ist der Stand der Gesellschaft; die häusliche, die eheliche, die väterliche Gesellschaft sind so viele Schritte, wodurch er der grossen Gesellschaft näher kommt, die alle anderen in sich fasst und die sich das Beste aller Gesellschaften zu ihrem Ziele gesteckt hat." Diese grosse Gesellschaft ist der Staat, und die nothwendigsten Forderungen für ihn sind die Einheit des Zweckes, Einheit des Willens und Einheit der Kraft.[59]

Er möchte für diese Gesellschaft, die alle anderen umfasst, auch einen Gesellschaftsgeist zum Leben erwecken und bringt eine ausführliche Untersuchung in seinen Wochenschriften und einige Grundsätze in seinen Werken vor; er möchte den Ge-

dankengang, den Rousseau angeregt hatte, mit einem Inhalte erfüllen; es gelingt ihm aber nicht, diesen seinen Plan zu einem ideellen Principe zu vertiefen, wie es späterhin dem KANT gelang;[60] er bleibt vielmehr doch auf der formalistischen Lehre in der Theorie des Staates und auf der praktischen Verwaltung in den Gebieten der Polizei und der Handlung stehen; dann aber betont er die Nothwendigkeit und die Pflicht für alle Bürger, thätig zu sein. Aus diesen Gründen erklärt er: „Ich nehme demnach die Vergrösserung der bürgerlichen Gesellschaft durch die Förderung der Bevölkerung zum gemeinschaftlichen Hauptgrundsatze der Staatswissenschaft und der darunter begriffenen Theile an.“ (I, c. II, 26 f.)[61]

„Je grösser die Menge des Volkes, desto grösser ist das Mass des Widerstandes, worauf die äussere Sicherheit beruht, folglich der Hauptgrundsatz der Politik.“

Je grösser die Menge des Volkes, auf dessen bereiten Beistand man bauen kann, desto weniger hat man von innen zu fürchten, folglich der Hauptgrundsatz der Polizei; je mehr Menschen, desto mehr Bedürfnisse, desto vielfältiger die Nahrungswege von innen; je mehr Hände, desto häufiger die Erzeugnisse des Erdbaues und Fleisses, der Stoff zur äusseren Vertauschung, folglich der Hauptgrundsatz der Handlungswissenschaft; je mehr Bürger, desto mehrere, die zum öffentlichen Aufwande beisteuern, desto kleiner der Antheil für jeden Mitsteuernden, insbesondere ohne Verminderung der öffentlichen Einkünfte selbst, folglich der Hauptgrundsatz der Finanzwissenschaft.

In der Lehre der Naturgesetze der Bevölkerung stützt er sich insbesondere auf das 1742 in der ersten Auflage erschienene Werk von SÜSSMILCH: „Göttliche Ordnung in der Veränderung des menschlichen Geschlechtes.“

Von der Theorie der Übervölkerung, die später 1798 erst durch MALTHUS in die Welt trat, hat er natürlich keine Kenntnis; aber in einzelnen Erörterungen treten ihm doch Bedenken gegen seine Populationsgrundsätze auf, und er meint, der Satz sei so zu verstehen, dass die Menschen genügend beschäftigt werden.

Besondere Erörterungen bringt er in einer speciellen Abhandlung: „Vierzig Sätze über die Bevölkerung“ vor;[62] sie sind allerdings noch in manchen Punkten naiv, er meint: „Die Weisheit des Schöpfers wird nicht zugeben, dass die Bevölkerung in ein Missverhältnis zu den Nahrungsmitteln komme; die Grösse der Bevölkerung stehe immer gleich der Grösse der Beschäftigung.“

Er hat eine geringe Vorstellung von der Fähigkeit der Ausbreitung des Menschengeschlechtes: „Welches Land ist so bevölkert, dass 1500 Menschen auf eine Quadratmeile kommen?“ 3000 Menschen aber scheinen ihm das Maximum zu sein. Von diesem Gesichtspunkte sind auch seine Anschauungen über das ungünstige Verhältnis der Bevölkerung in grossen Städten zu erklären, indem er nämlich darthut, dass dadurch die grosse Theuerung erzeugt wird und anderseits, dass die städtische Bevölkerung sich nicht genügend vermehren könne, weshalb sie einen Zufluss von aussen nöthig habe, da sie sonst aussterben würde, wenn kein Zufluss käme. Diese Gründe bewogen ihn, gegen die Übervölkerung der grossen Städte seine Erörterungen vorzubringen.[63] Von diesem Gesichtspunkte insbesondere spricht er sich gegen die Landesverweisung aus, ja gegen das Recht der Ausweisung überhaupt und auch gegen die Todesstrafe; es kommt ausdrücklich vor, dass vielleicht auch die Todesstrafe besonders aus diesem Grunde nicht zweckmässig sei. Die Theresianische Keuschheitscommission, die Theresianischen Vorkehrungen über die Polizei werden von ihm gerade mit Rücksicht auf die Beförderung der Bevölkerung belobt, und er spricht eingehend und ausführlich über die Nothwendigkeit von Gebärhäusern, Findelhäusern und namentlich über die Behebung des Makels der unehelichen Geburt — welche Anschauung bekanntlich auch im Josefinischen Gesetzbuche zum Ausdrucke gelangt — das einige Vorschriften enthält, die in den SCHLÖTZER'schen Jahrbüchern einer scharfen Kritik unterzogen wurden.[64].

Der Hauptgrundsatz seiner Bevölkerungslehre ist von der Voraussetzung getragen, dass die vorhandenen Menschen nützlich beschäftigt werden. Schon im „Mann ohne Vorurtheil“ hatte er nach Art der Staatsromane von einer utopischen Insel gesprochen, wo ICHNA-PUKA lehrte, und gesagt:

Einem Weisen dieser Insel ward aufgetragen, eine Gesetzestafel für das gemeine Volk zu verfertigen. Er brachte dem Fürsten eine grosse Rolle Baumrinde, worauf aber nichts geschrieben stand als „Arbeitet“.

Dieser Grundsatz, dass jeder, der arbeiten kann, auch arbeiten soll, wird von ihm nach der Lehre des VON WOLFF und JUSTI[65] zu einer obligatorischen Pflicht im Staate gemacht.

In den drei Theilen seines Hauptwerkes erörtert er zunächst *in dem Gebiete der* Polizei die innere öffentliche Sicherheit, *als den Zustand,* wo der Staat von innen, mithin von den eigenen

Bürgern nichts zu fürchten hat, und die innere Privatsicherheit, wornach der einzelne Bürger nichts zu fürchten hat, und geht dann auf die einzelnen Beziehungen ein.[66] Er behandelt die Aufmerksamkeit auf den sittlichen Zustand, die Nothwendigkeit der Religion, welche der Regent als einen Leitriemen in seinen Händen nicht vernachlässigen dürfe, die Unzulässigkeit der Freigeisterei, die ihm als ein politisches Verbrechen erscheint (I, 64), die nothwendige Sorge für zureichende Seelsorger (I, 65), die Errichtung von Pfarrbezirken mit ordentlicher Besoldung der Pfarrer (I, 66, 67), die Aufrichtung und Durchführung einer guten Religionspolizei (I, 68, 69), ferner die Erziehung des Volkes (I, 70 ff.), wobei er die Nothwendigkeit, dass das Volk allgemein gebildet werde, betont, die Frage des öffentlichen und des Privatunterrichtes, die Sorge für Waise und Unbemittelte, deren Obsorge er zunächst den Obrigkeiten zuweist, die Errichtung von Findlings- und Waisenhäusern, die Gründung von Schulen, Akademien, Collegien, Pensionaten für höhere Bildung, die Sorge für die Wissenschaften an der Universität, — und in einem patriotischen Traume, den er später separat publiciert hat,[67] hatte er die Gründung einer Akademie der Wissenschaften im Auge, von der er allerdings damals nur träumte.

Bei diesen Erörterungen wird auch die Censur von ihm besprochen (I, 94 f.) und in einer Ausführlichkeit behandelt, dass sie nach allen Richtungen, in Bezug auf die Bücher, in Bezug auf die Schaubühne, auf die Zeitungen, auf die Predigten, Reden, Bilder, Kupferstiche zur Erörterung kommt.[68]

Man darf sich nicht wundern, dass Sonnenfels ein so grosses Gewicht auf die Censur zu seiner Zeit gelegt hat; es war eben die Blütezeit des Polizeistaates, wo man es als höchstes Lob einer Nation ansah, wenn man von ihr sagen konnte: „Sie sei eine policirte Nation.“[69]

Auch seine Erörterungen über die Gesindeordnungen haben manches, was in die Polizei fällt, und die spätere Ausgabe eines bedeutenden Werkes darüber war ein Stolz seiner Seele.[70]

Über die öffentliche Erziehung bringt er vielfach Begriffe vor, durch welche man namentlich an Rousseau erinnert wird und nicht unterlassen kann, dieselben mit Wilhelm Meister'schen Gedanken zu vergleichen.[71]

Anderseits wendet er sich gegen den Müssiggang, fordert die Abstellung des Bettelns, Errichtung von Rettungs-, Arbeits- und Zuchthäusern, und dass man, anstatt jemanden abzuschaffen,

jedermann beschäftige, welche Gedanken der Fürsorge er in dem zweiten Theile seines Hauptwerkes weiter verfolgt.

In den nach vorausgegangenen einzelnen Untersuchungen herausgegebenen „Grundsätzen der Handlung", worunter er alle erwerbenden Thätigkeiten begreift, bezeichnet er als Zweige des Einkommens: die Geldrenten, die Einkünfte der Landgüter und die Einkünfte aus der „Emsigkeit", was so ziemlich mit den drei später von SMITH in scharfer wissenschaftlicher Weise fixierten Einkommensquellen der Grundrente, Capitalsrente und des Arbeitslohnes sammt Unternehmergewinn zusammentrifft. Beim Arbeitslohn erkennt er die Unterhaltskosten der Arbeiter als einen wichtigen Bestandtheil derselben und bekämpft wie bei der Landwirtschaft so auch hier die grosse Anzahl der Feiertage, die den Lohn vertheuern müssen, behandelt die Concurrenz der Arbeiter untereinander und die Frage der Maschinen.[72] Er hebt den Grundsatz hervor, dass alle diese Beschäftigungszweige der Landwirtschaft, des Gewerbes und der Handlung in einem innigen Zusammenhange stehen, und dass keiner derselben des anderen vermissen soll. Schon in dem „Mann ohne Vorurtheil" hat er die elenden Zustände der Bauern geschildert und darin hervorgehoben, wie unmöglich es sei, eine Verbesserung der Landwirtschaft bei dem System der Frohnden und Unterthänigkeiten zuwege zu bringen: „Ich habe einen schlechten Weingarten und könnte ein Feld daraus machen; ich darf es nicht, sagt der Bauer, ich darf kein Feld daraus machen, denn ich muss von hier einen Weinzehent abliefern; an einem anderen Orte hätte ich einen guten Platz, wo ich einen Weingarten machen könnte, aber ich darf es nicht, weil auf diesem ein bestimmter Kornzehent steht."

Diese Gedanken sind allerdings zunächst von JUSTI, aber sie werden von Sonnenfels schärfer ausgemünzt und unter das Volk gebracht.[73]

Eine Reihe von Vorschlägen, die sich auf die Landwirtschaft beziehen, gehören hieher, namentlich die Nothwendigkeit der Sorge für bessere Lebensweise auf dem Lande, die Sorge für Ärzte auf dem Lande, die Nothwendigkeit der Zertheilung der grösseren landwirtschaftlichen Güter, die Verwandlung von Domänen in Bauerngüter, die Einführung des Futterbaues, die Begünstigung einzelner Gehöfte, die einen geschlossenen Besitz um sich haben, und dergleichen mehr (II, 30—54). Gegen Unglücksfälle wird auf Assecuranzen, gegen Nachlässigkeit auf Einziehung

der Gründe und Abstiftungen, zur Aufmunterung auf Sicherung des Eigenthums und Verscheuchung der Muthlosigkeit gewiesen.

Als erste Abnehmer der Landwirtschaftsproducte nennt er die „Nationalverzehrer", dann die Fremden. „Ist ein Staat in verschiedene Provinzen getheilt, so sollen keine Zwischenmauthen (wie er die Zölle nennt) sein. Es gehört unter die unumgänglichen Ermunterungen des Feldbaues, dass die Gemeinschaft unter den Provinzen eines Staates nicht gehemmt sei" (II, 57).

Im Abschnitte von den Manufacturen bekämpft er die Ansicht der Physiokraten auf das entschiedenste, welche bekanntlich nur der Landwirtschaft eine productive Kraft zuschreiben (II, 109). Er wendet sich gegen Monopolien (II, 116 f.), und zwar in den beiden Formen des Monopols sowohl, als des Propols; des Monopols, welches den Verkauf dominiert und die Erweiterung der wirtschaftlichen Entwicklung verhindert, und des Propols, welches den Vorkauf für sich in Anspruch nimmt. Das Monopol hindert nur die Ausbreitung einer Beschäftigung, das Propol entkräftet sogar eine schon begründete und ausgebreitete Manufactur (II, c. II, f. 120).

Gegen die Zünfte wendet er sich in scharfer Weise, namentlich in der Beschränkung der Zahl der Meister, Lehrlinge und Gesellen.

Schon im „Mann ohne Vorurtheil" hat er sich dagegen gewendet: „Es ist nicht genug, dass man arbeiten kann; wenn man nicht arbeiten darf, so ist man bei aller Geschicklichkeit unglücklich; das ist das Schicksal des Arbeiters; man sollte in der Gesellschaft nichts weiter wünschen, als dass jeder Bürger arbeiten wollte, und man verhindert ihn, dass er es könne. Die Befugnis zu arbeiten ist in Zünfte eingeschlossen; wer nicht aus der Zunft ist, muss ein Schurke werden!"[74]

Er will untersuchen, ob es nicht möglich sei, ein gesetzmässiges Gleichgewicht zwischen der Arbeit und dem Lohne herzustellen, was ihn weiter, als es den Schein hatte, führt, ohne dass er die Untersuchung über diese Frage zum Abschlusse bringt, welche bekanntlich auch heute noch nicht ganz gelöst ist.

Er wendet sich gegen das System der hohen Abgaben und bekämpft insbesondere die Zunftabgaben und auch hier wieder die vielen Feiertage (II, 150, 151).

In diesem Theile ist es nun, wo er in der Auflage vom Jahre 1786 auch des ADAM SMITH erwähnt und die Wichtigkeit der Theilung der Arbeit anerkennt, wobei er namentlich das bekannte

Beispiel von der Nadelfabrik ausdrücklich in seinem Buche vorführt (II, 154).

Merkwürdig ist sein Urtheil über Maschinen: „Der Vortheil der Maschine liegt entweder in der Ersparung der Zahl der Arbeiter oder der Arbeitszeit; jedoch in Beziehung auf das Ganze wird die Einführung der Maschine nicht ohne Beschränkung anzurathen sein"; er bezieht sich auch auf Montesquieu; er fürchtet, dass die zu rasche Einführung der Maschinen die Arbeiter überflüssig machen, insbesondere bei der Landwirtschaft das Landvolk vermindern könne; es ist eine Art Sorge vor dem Entstehen der socialen Frage, die er in seiner Seele trägt (II, 155).

„Die Wohlfeilheit ist dem Staate bei Manufacturen ein bloss untergeordneter Endzweck, der dem Hauptendzwecke, die Beschäftigungen zu vervielfältigen, nicht entgegenstehen darf" (II, 155, 157).

Die Bearbeitung der Materie, welche die meisten Menschen beschäftigt, das ist der Zweck der Handlungsthätigkeit, worunter er eben alle Beschäftigungszweige versteht, die Bearbeitung der Materien, die Umwandlung derselben zu höheren Formen ist nach ihm productiv und er bekämpft mit Entschiedenheit die Physiokraten, welche dies leugnen.

Die Bearbeitung der Materien, das, was das römische Recht Specification der Sachen genannt hat, die reproductive Consumtion, wie die neuere national-ökonomische Wissenschaft, besonders STEIN, sie bezeichnet oder was KARL MARX in seiner transcendentalen Redeweise die Transsubstantiation der Ware nennt, das ist es, was SONNENFELS dem Volke gesichert haben will, damit jede Form der Arbeit und jede Umwandlung des Productes zu höheren Werten dem Volke gesichert bleibe.

Von diesem Gesichtspunkte ist auch seine Lehre der äusseren Handlung erfüllt; so insbesondere seine „Betrachtungen über die neun Handlungsgrundsätze Englands",[75] deren Resultate er im Lehrbuch (II, c. III, 213) principiell zusammenfasst.

Die Stufen des Vortheils bei der Ausfuhr sind folgende: Die vollkommenste Stufe ist: vollkommene Ware ausführen gegen bares Geld; zweite Stufe: Vollkommene Ware gegen Rohmateriale; die dritte: Vollkommene Ware gegen vollkommene Ware; die vierte: Rohmaterial gegen Rohmaterial und die fünfte, die geringste: Rohmateriale ausführen gegen vollkommene Ware, die man einführt.

In ausführlicher Weise ergeht er sich über diese Grundsätze *und zeigt, dass* dies insbesondere auch in einem nothwendigen

Zusammenhange mit den Einflüssen der Regierung zur Beförderung der einzelnen Wirtschaftszweige sei.

Auch in der besonderen Abhandlung: „Von Mauten und Zöllen", wobei er Maut gleichbedeutend mit Zoll nimmt und beide den Weggeldern gegenüberstellt, ergeht er sich über diese Fragen. Man müsse Mauten und Zölle für das nehmen, was sie ihrem Wesen nach eigentlich sein sollen, nämlich für den Zaum in den Händen des Regenten, die Handlung zu dem gemeinen Besten nach seiner Willkür zu leiten, ohne alle Absicht auf das Geld, welches zufällig dadurch eingeht."[76]

Die Vermehrung der Beschäftigungen im Lande ist der Hauptgesichtspunkt, nach welchem die Einfuhr von unentbehrlichen und entbehrlichen, im Lande selbst erzeugbaren Waren, sowie die Ausfuhr von Rohproducten und Manufacturerzeugnissen behandelt wird.

„Wenn eine Ware zu einer gewissen Stufe der Vollkommenheit gelangt ist, dann unterstütze der Staat den nationalen Fabrikanten gegen den Fremden durch verhältnismässige, auf das fremde Fabrikat gesetzte Eingangsrechte." (Grundsätze II, 202.) Dagegen wehrt er sich entschieden gegen Einfuhrsverbote und ist ein heftiger Bekämpfer des Prohibitivsystems[77] als dessen Anhänger man ihn gleichwohl citieren hört.

Den ökonomischen Handel, wie er den Zwischenhandel nennt, hält er für ausserordentlich nützlich für das Volk;[78] der Vorzug beim „Zusammenfluss" zwischen Fremden und Einheimischen könne aber nach seiner ausdrücklichen Erklärung nicht errungen werden, wofern nicht vorher der Zusammenfluss unter den Inländern selbst vorhanden ist; es ist also nicht blos nützlich, es ist nothwendig, diese Concurrenz im Lande selbst zuerst zu befördern.[79]

Von diesem Gesichtspunkte tritt er in allen Zweigen, schon bei der Landwirtschaft, dann bei den Manufacturen und beim Handel gegen jede Zolllinie in einem Staate, gegen jede Art von Zöllen zwischen den Provinzen eines Staates auf; und er vertritt die handelspolitische Einheit aller Provinzen eines Staates mit solcher Kraft, dass er erklärt: „Die gegebene Regel ist so allgemein, dass nicht eine einzige Ausnahme dabei stattfinden kann." (Von Mauten und Zöllen, S. 365).

In der Lehre von den Pflanzörtern, Colonien (Grundsätze II, c. IX) warnt er davor, dass ein Mutterland sich zu eigennützig und ausnützend gegen eine Colonie verhalte; das ist ein

Grundsatz, welcher 1787 geschrieben wurde, in dem Jahre in welchem die noch jetzt bestehende amerikanische Verfassung entstand.

Interessant ist, was er über die Fracht sagt; dass die Fracht ein Vortheil für das Volk sei, das bekannte er ebenso, wie es auch SMITH und JUSTI gesagt haben. Von der Nothwendigkeit der Herstellung guter Strassen und den Einrichtungen, den Verkehr zu erleichtern, wird ausführlich gesprochen; von der Wasserfracht aber behandelt er (II, c. VI, 242) besonders interessant die Frage der Canäle; man muss unwillkürlich hiebei an die noch gegenwärtig bestehende Frage der Verbindung der Ostsee durch den Donau-Oder-Canal mit dem schwarzen Meere denken, obgleich er vor zu grossen Projecten warnt: „Aus diesem Grunde tragen Vorschläge und Entwürfe von einer grossen Ausbreitung fast immer den Grund der Verwerfung in sich. So war der Entwurf von LOTHARIO VOGEMONTE beschaffen, der nichts Kleineres als die Schifffahrt aus der Ostsee in das schwarze Meer und dadurch in das mittelländische Meer durch Vereinigung vieler ansehnlicher Flüsse Deutschlands zum Gegenstande hatte."

„In diesem weitläufigen Entwurfe sind gleichwohl eine Menge einzelner Theile, die in Erwägung gezogen zu werden verdienen" (II, c. VI, 242).

Vom Umlaufe des Geldes ist neben der Frage der Anlegung eines Staatsschatzes, der Zweckmässigkeit nicht zu grosser Zahlungstermine und der Localvertheilung des Geldes (II. c. IX, 304--308) insbesondere die Erörterung interessant, die er über die Zinsen und den Wucher vorbringt.

Die Zinsen überhaupt vertheuern die Waren; sie vermindern den Gewinn der Emsigkeit; sie lassen den Besitzer des Geldes ohne eigene Arbeit an diesem Gewinne theilnehmen (II, c. IX, 309). Die Frage des Wuchers führte er in besonderen Abhandlungen aus.

Dass er in der Lehre von den Finanzen sich insbesondere auf FORBONNAIS stützt, ist bekannt; interessant ist aber, was er in der Frage der Manufactur und Handlungsgrundsätze noch vorbringt:

„Mit dem grössten Interesse," sagt ROSCHER, „hat Sonnenfels den Lieblingsgedanken der alten Mercantilisten, die Lehre von der internationalen Bilanz erörtert."[80] Er hat aber diese Lehre erweitert und namentlich unterscheidet er eine nummerische Bilanz und eine Bilanz des Vortheils." — In seiner Lehre von der Handlung (II, c. XIV 354) sagt Sonnenfels: „Die Bilanz überhaupt genommen ist eine nummerische und eine Bilanz des *Vortheils;* die nummerische Bilanz besteht darin, dass die einge-

führte Ware mit dem Einkaufspreise veranschlagt wird; übersteigt die Summe der Ausfuhr die Summe der eingeführten Waren, so heisst die Bilanz vortheilhaft; ist das Gegentheil, so heisst sie nachtheilig." — „Die Bilanz des Vortheiles hingegen ist die Berechnung, auf welcher Seite eine grössere Anzahl von Menschen beschäftigt wird."

Da nach Sonnenfels der Hauptgrundsatz der gesammten Volkswirtschaft in der Beschäftigung der Bürger besteht, so legt er auf die Bilanz des Vortheiles ein viel höheres Gewicht als auf die bloss nummerische Bilanz[81] (II, c. XIV, 356). Er gebraucht das Beispiel: „Wenn Portugal $2^1/_2$ Millionen Werte in Diamanten nach Österreich ausführt, Österreich aber nur um 2 Millionen hier erzeugte Leinwand nach Portugal, so habe Österreich einen viel grösseren Handelsvortheil aus diesem Geschäfte als Portugal, weil durch die Erzeugung dieser Leinwand viele tausend Menschen erhalten werden.

Interessant ist es, dass er sich für Handelstractate ausspricht, die Grundsätze, nach welchen die Handelstractate errichtet werden sollen, stimmen vollkommen mit den Grundsätzen der äusseren Handlung (II, c. XIII, 351); und wichtig ist der Schluss, wo er von den Verwaltungsgebieten erklärt, dass dieselben durch ein Handlungscollegium des ganzen Staates verwaltet werden sollen; er fordert also nicht bloss Provincialcollegien, sondern auch eine Oberste Commercialstelle und regt insbesondere an, dass die Provincialcollegien unter Mitwirkung von Handelsleuten gebildet werden mögen, also ein Vorbild für die Gewerbe- und Handelskammern, wobei er besonders das Beispiel von COLBERT citiert; das Oberste Handlungscollegium müsse aber eine rein staatliche Behörde sein.

In den Grundsätzen für die Finanzwissenschaft hebt er zunächst hervor, dass der Staatsaufwand der Massstab für die Staatseinkünfte (im Gegensatze zur Privatwirtschaft), die öffentlichen Einkünfte ein Theil der Nationaleinkünfte, die Quellen des Nationaleinkommens der Feldbau und die „Emsigkeit" seien, der Verfall der Manufacturen den Verfall der Landwirtschaft begleite. Er bekämpft das System der Verpachtungen der Staatseinkünfte, hebt mit Schärfe hervor, dass keine Ausnahme von der Beitragspflicht zu gestatten sei (III, c. I, 85), und fordert die Feststellung eines guten Finanzsystems, dessen Eigenschaften er schildert.[82]

Aus den einzelnen Ausführungen ist besonders hervorzuheben, dass er die Auflösung der Domänen in Bauerngüter empfiehlt (III, c. II, 105, 106).

Die Regalien behandelt er unter einem dreifachen Gesichtspunkte: „Das Maut-, Strassen- und Münzregal seien eigentlich Handelsanstalten, das Forst- und Jagdrecht Polizeianstalten; andere Regalien können als reine Steuerregale behandelt werden" (III, 108 ff.). Von den „zufälligen Einkünften", dem Rückfall von Gütern, Strafgeldern, Abzugsgeldern, Taxen, Sporteln, Stempelpapieren, Sterbefällen, Verleihungsgebüren handelt er, weil sie zum System gehören; bei den Steuern aber, welche „der Ersatz des gemeinschaftlichen Dienstes" sind (c. V, 126), behandelt er eingehend die Real- und Industrialsteuer, dann die Verzehrungssteuer, (128) die Überwälzung der Steuer, die zuletzt immer auf den Consumenten fällt, und die Grenzen der Überwälzung (129), Steuerregulativ und Steuerfuss (130), und erklärt sich insbesondere gegen die Physiokraten, deren Lehre, dass alle Steuer nur auf Grund und Boden zu legen sei, er mit Scharfsinn bekämpft. In der That war es ein Paradoxon der Physiokraten, die Landwirtschaft heben zu wollen und ihr andererseits alle Steuern aufzubürden, welchen Widerspruch Sonnenfels hervorhebt. Er macht Einwendungen gegen die von JUSTI vorgeschlagene Gewerbsteuer und vertritt dagegen lebhaft die Accise, welche Steuern in Österreich beide eingeführt worden sind.

Bei der Frage der Einführung neuer Steuern, der Erhöhung der Steuern und der Fähigkeit, die Steuern zu tragen, kommt er wieder auf politische Gedanken zurück; namentlich fordert er, dass die arbeitende Classe von der Erhöhung der Steuern nicht getroffen und nicht von denselben berührt sein solle. „Die erzielende und arbeitende Classe soll von der Last des ausserordentlichen Aufwandes auch unmittelbar ganz enthoben bleiben" (c. VI, 187); ja er verlangt, wie der Geistlichkeit ein Bestandtheil zum Leben als eine portio sacra erhalten sein soll, so soll auch dem Arbeiter ein solches Mass zu existiren gesichert sein.

Den Zusammenhang der Finanzen mit der Regierungsform schildert er in folgender Weise: „Wenn die Grösse und glückliche Lage eines Staates den reellen Credit desselben erhöhen, so muss die Regierungsform auf die Natur des persönlichen Credites einfliessen. Eine Regierungsform, wo die Nation und *Stände bei* der Bestimmung der Abgaben und anderen Finanz*operationen* mitzusprechen haben, ist dem öffentlichen Credite

günstiger, als wo dieses ganze Geschäft in den Händen eines unbeschränkten Ministers oder Fürsten liegt. Je unbeschränkter also eine Monarchie ist, desto begrenzter ist ihr Credit; der Despotismus hat gar keinen" (c. VII, 197).

Obgleich dieser Gedanke aus Montesquieu stammt,[83] so wird er doch mit eigenen Argumenten von Sonnenfels vertreten, und es ist interessant, dass er in einem von der Censur approbierten österreichischen Lehrbuche stand.

Über die Schädlichkeit der Steuerverpachtungen, die Bedenken der Verpfändungen von Krongütern oder von geldabwerfenden Rechten des Staates, die Unzulässigkeit von Zwangsanleihen, den Nachtheil von Steuervorschüssen spricht er sich (III, c. VII, 190—206) sehr deutlich aus und erklärt sich auch mit viel Scharfsinn gegen die Leibrentenoperationen des Staates (III, c. VII, 207—216). Bei den Staatsschulden spricht er sich in ähnlicher Weise wie ADAM SMITH[84] für die Schuldentilgung durch Annuitäten aus, und es ist hervorzuheben, dass er namentlich die Herausgabe von Staatspapiergeld als einen Vortheil für den Staat erklärt, durch welchen der Staat von dem Credite, ohne Zinsen zahlen zu müssen, Anspruch machen könne. Er ist für Staatspapiere statt baren Geldes in einem bestimmten Betrage (c. VII, 220), für Unification der Staatsobligationen (c. VII, 225), für einen Zwangscours der Staatspapiere (c. VII, 227) und behandelt unter Banken und Bankcredit besonders Depositenbanken, Girobank, Leihbanken und Notenbank (c. VII, 228—230).[85]

Gegen den Zinswucher, bezüglich dessen er eine besondere Schrift: „Über Zinswuchergesetze" herausgab, bringt er in einer zweiten Schrift einen Vorschlag vor, in welcher Weise diesen Gefahren abgeholfen werden könne.

„Für die Zinswuchergesetze, sagt ROSCHER, „tritt in gemässigter Weise sein berühmtes Buch über Wucher und Wuchergesetze (1789) ein."[86]

In der zweiten Schrift: „Über die Aufgabe: Was ist Wucher und welches sind die besten Mittel, demselben ohne Strafgesetze Einhalt zu thun" (1789), wird namentlich die Gründung einer Leihbank empfohlen, welche den allgemeinen Ständen der Monarchie zur Verwaltung übergeben werden soll.

Sonnenfels schlägt vor: „Der Staat hätte 40 Millionen Bankozettel als den Hauptstamm der Bank zu erschaffen." „Ob diese Bank gleich unter der Oberaufsicht der höchsten Finanzstelle zu stehen haben würde, so wäre die unmittelbare Verwaltung

derselben dennoch den allgemeinen Ständen der Monarchie zu übertragen, und sie führte daher den Namen einer ständischen Leihbank.“ „Mehrere Ursachen,“ setzt er in einer Anmerkung hinzu, „machen es bei dieser Bank höchst wichtig, ihr nicht nur den Namen einer ständischen Bank beizulegen, sondern auch die ganze Verwaltung derselben an die allgemeinen Stände zu übertragen. Es wird dadurch auffallender, dass der Staat der Gläubiger der Bank ist.“ „Endlich muss es das Zutrauen zu dieser Anstalt mehr befestigen, wenn, da die Verwaltung bei den Ständen, die Oberaufsicht bei der Regierung ist, dadurch die Controllierung in die Augen fallender wird.“[87]

Für die Verwaltung des gesammten Finanzwesens betont er auch hier wieder die Nothwendigkeit eines Finanzcollegiums, worunter er die Oberste Finanzverwaltung versteht.

Der Name und die äussere Gestalt sei an sich zufällig, aber es ist wesentlich, dass die Theile der Verwaltung, welche unter sich einen untrennbaren Zusammenhang haben, nicht gesondert und das Finanzcollegium aus solchen Gliedern zusammengesetzt sei, die in Absicht auf die Provinzen die zureichenden Kenntnisse besitzen (c. IX, 252). Dies scheint ihm der einzige Weg, jedem Bezirke in einer unbeschränkten Monarchie gewissermassen seinen Vertreter zu versichern, wie die Provinzialabgeordneten es für sich selbst in Staaten sind, wo das Geschäft der Abgaben bei den Versammlungen der Stände behandelt wird (c. XI, 254).

Die Grundsätze des Sonnenfels über Polizei, Handlung und Finanzwissenschaft haben in verschiedenen Gesetzen, — die Grundsätze über die Volkswirtschaft insbesondere in den damals codificirten Gesetzeswerken Eingang gefunden, und ich unterschreibe wörtlich, was ROSCHER in Bezug auf dieses Gesammturtheil sagt:

„Um die Bedeutung, ich will nicht sagen von Sonnenfels' Person, wohl aber von seinen Ansichten recht zu würdigen, darf man nicht vergessen, dass sowohl das preussische allgemeine Gesetzbuch von 1791, als auch das österreichische allgemeine bürgerliche Gesetzbuch von 1811, was ihre volkswirtschaftlichen Voraussetzungen betrifft, wesentlich auf demselben Boden stehen wie Sonnenfels' Lehre.“

Das preussische Landrecht sowohl als das österreichische *allgemeine bürgerliche* Gesetzbuch stehen nationalökonomisch viel *näher an* SONNENFELS als an FRIEDRICH und JOSEF.[88]

Bemerkenswert ist die bisher wenig beachtete Thatsache, dass Sonnenfels selbst eine neue Bearbeitung seines Werkes über Polizei, Handlung und Finanz geplant hat, welche er unter dem Titel: „Handbuch der inneren Staatsverwaltung" in acht Bänden herauszugeben beabsichtigte, von dem er selbst im Jahre 1798 nur den ersten Band herausgab, wozu der zweite Band erst nach seinem Tode 1817 erschien.

Es ist über Sonnenfels' allgemeine Bedeutung so viel geschrieben worden, dass ich die vielen Autoritäten, die von ihm geschrieben haben, zu citieren durchaus nicht in der Lage bin.

Noch ist aber, um sein Bild einigermassen abzurunden, zu erwähnen, dass Sonnenfels auch in der praktischen Verwaltung thätig war, in welcher er insbesondere für eine bessere Beleuchtung von Wien sorgte und dass er als Secretär an der Spitze der damaligen Kupferstecher- und Zeichnungsakademie stand, wodurch er einen Einfluss auf die Pflege der bildenden Kunst in Österreich gewann,[89] durch deren späteren Weiterbau und stets höher steigende Entwicklung unter der Ägide unseres glorreich regierenden Kaisers das neue Wien zur schönsten Stadt sich erhob.

Trotz so vieler interessanter Punkte der Schriften des Sonnenfels zeigen sich doch in manchen Beziehungen auch Lücken und Fehler, die einer Verbesserung fähig waren, und namentlich auf polizeilichem und nationalökonomischem Gebiete fanden sich bei ihm Mängel, welche seinen Nachfolger auf der Lehrkanzel der Wiener Universität zu grösserer Zuhilfenahme der deutschen Literatur veranlassten. Dieser berufene Nachfolger von Sonnenfels war **Josef Ritter von Kudler.**

JOSEF KUDLER wurde geboren am 10. October 1786 zu Graz, im selben Jahre, wo Sonnenfels die fünfte Auflage seiner „Grundsätze der Polizei, Handlung und Finanz" herausgab.[90] Er hat namentlich in den zwei Richtungen des Polizeirechtes und der Volkswirtschaft die Arbeiten des Sonnenfels systematischer gestaltet, so dass er durch sie wohl einen sehr bedeutenden Rang in Österreich einnimmt.

Wie es für ZEILLER entscheidend geworden war, dass ihn der Naturrechtslehrer FREIHERR VON MARTINI liebgewann, ihm die Erziehung seines Sohnes anvertraute und als Lieblingsschüler

zuerst in seinem Lehramte aushilfsweise verwendete, so war es für JOSEF KUDLER entscheidend für sein Leben, dass ihn Professor ZEILLER als Landsmann liebevoll behandelte und für ihn in den Ausschlag gebenden Jahren der Jugend sorgte.

Und wie ZEILLER nach den Ausführungen des Herrn Professors Pfaff, der Beziehungen zu MARTINI dankbaren Herzens wiederholt gedachte, so hat auch KUDLER wiederholt seinem dankerfüllten Herzen für Zeiller Luft zu machen gesucht, wie schon in der Zueignung seines grossen Werkes über das Polizeistrafrecht, so auch durch seinen beachtenswerten Nekrolog, mit welchem er bis zur Festrede des Herrn Professor PFAFF der einzige Biograph von Franz von Zeiller war.

Rührend ist es zu lesen, mit welcher Wärme JOSEF KUDLER in der Widmung seines ersten grösseren Werkes von den Wohlthaten seines Gönners FRANZ VON ZEILLER spricht:

„Auch ich befand mich," schreibt er, „unter der grossen Zahl derjenigen, deren Wohlthäter Sie wurden. Früh meines Vaters beraubt, konnte eine treue sorgfältige Mutter nur mit grosser Aufopferung meine erste Bildung vollenden. Da nahmen Sie sich meiner an und eröffneten mir ein zweites Vaterhaus; durch Jahre sorgten Sie für meine Erhaltung und Ausbildung und suchten mir selbst jene Grundsätze einzupflanzen, welche den Menschen und Bürger zieren."

„Welche Kraft mussten Ihre Worte erhalten durch das Beispiel, mit welchem Sie thätig die Lehre unterstützten. Sie prägten mir Treue und Anhänglichkeit an Fürsten und Vaterland ein und zeigten durch Ihr öffentliches Leben unter vier Regenten, deren Scepter Österreich beglückten, wie sich die Gesinnungen aussprechen müssen. . . . Erfolglos müssten Ihre Lehren und Beispiele geblieben sein, wenn sie nicht wenigstens die Gefühle einer unvergänglichen Dankbarkeit zurückgelassen hätten."[91]

„Die Zueignung dieses Werkes ist weit entfernt, ein auch nur schwacher Versuch der Vergeltung Ihrer Wohlthaten zu sein. Ihr demselben vorgesetzter Name ist vielmehr seine vielleicht einzige Zierde. Aber Gelegenheit gibt sie mir, die hohe Verehrung und die innige Dankbarkeit öffentlich auszudrücken, die für Sie in meinem Herzen nie erlöschen wird."

Das Werk ist 1824 herausgegeben; vier Jahre darauf hatte *KUDLER den* Nekrolog für ZEILLER zu schreiben.

KUDLER hatte seine Studien in seiner Vaterstadt Graz begonnen, dann die Wiener Universität bezogen, wo er sich dem Studium der Rechtswissenschaften widmete. Der Beruf des Lehramtes zog ihn vor Allem an, und noch vor Erlangung des Doctorates wurde er supplierender Professor der Statistik und politischen Wissenschaften an der Wiener Hochschule.[92] Nach erlangtem Doctorat erhielt er 1810 die Professur aus den genannten Fächern an dem Lyceum zu Graz.

Nach eilfjähriger Thätigkeit auf diesem Posten wurde er 1821 zum Professor der politischen Wissenschaften und der österreichischen politischen Gesetzkunde an der Wiener Universität ernannt,[93] in welcher Eigenschaft er seine grössten Werke publicierte.

KUDLER hatte bis dahin nur einige kleinere Schriften, insbesondere statistischen Inhaltes über die Bevölkerung in der „Steiermärkischen Zeitschrift", namentlich im Jahrgange 1821 publiciert.

Im Jahre 1824 veröffentlichte er sein bedeutendes Werk: „Erklärung des Strafgesetzes über schwere Polizeiübertretungen", in zwei Bänden, von denen der erste von den schweren Polizeiübertretungen und deren Bestrafung und der zweite von dem Verfahren handelt, welchem Werke 1825, 1827 und weiterhin Abhandlungen über specielle Fragen aus demselben Gebiete in der Wagner'schen „Zeitschrift für österreichische Rechtsgelehrsamkeit" folgten.

Im Jahre 1835 erhielt KUDLER Titel und Rang eines k. k. Regierungsrathes, 1845 wurde er dem Comité beigezogen, welches von der Studien-Hofcommission zur Berathung des juridischen Studienwesens gebildet worden war.

In diesem Jahre 1845 publicierte er auch das mit der Jahreszahl 1846 erschienene zweite Hauptwerk: „Die Grundlehren der Volkswirtschaft" in zwei Theilen, deren erster Theil die theoretischen Lehren, deren zweiter Theil die praktischen Zweige der Volkswirtschaft behandelte.

Im Jahre 1848 wurde er unter gleichzeitiger Enthebung vom Lehramte zum Vicedirector der juridischen Studien an der Wiener Universität ernannt. Und in demselben Jahre 1848 wurde er auch von der Stadt Wien in den ersten constituierenden Reichstag gewählt, welcher anfangs in Wien, später in Kremsier tagte.

Wenn wir die literarischen Werke Kudlers ins Auge fassen und sie würdigen wollen, so müssen wir einen Blick auf die Zeit werfen. Wir müssen uns erinnern, dass seit SONNENFELS insbesondere durch den Einfluss des Philosophen von Königsberg[94] eine geistige Aufklärung über die Zwecke des Staates und durch die positiven Gesetzgebungen ein praktischer Umschwung in der Gestaltung und Gliederung des Rechtes und der Verwaltung sich zu vollziehen begonnen hatte, wenn auch beide Richtungen noch vollständig von naturrechtlichen Anschauungen beherrscht waren.

In der Theorie hatte sich durch Kant der Grundgedanke ausgebildet, dass es mit dem eudaimonistischen Glückseligkeitsprincipe, welches den Staat zu allen denkbaren Eingriffen in die Lebenssphäre aller Einzelnen berufen erklärte, nicht gethan sein könne, dass auch nicht nach einem äusserlichen Princip, sondern dass der Staat nach Rechtsgrundsätzen regiert werden solle.[95]

Dieser Grundsatz hatte insbesondere durch die energische Vertretung des GÜNTHER HEINRICH VON BERG auch im Gebiete der Polizeiwissenschaft und der ganzen Verwaltung namentlich durch dessen Werk: „Handbuch des deutschen Polizeirechtes, Göttingen 1799“ sich geltend gemacht, und es ist gegenüber den polizeistaatlichen Auffassungen von Bielfeld, Bob, Justi und Sonnenfels eine wesentlich veränderte Auffassung über die Polizei und Verwaltung zur Geltung gelangt, nach welcher auch die Gebiete der Verwaltung nach Rechtsgrundsätzen geregelt werden sollen.[96]

Und in der Praxis hatte sich durch die Tendenz der centralisierenden absoluten Regierungsgewalt ein Umschwung zu vollziehen begonnen, der insbesondere auch in dem Bestreben nach Codificierungen des Rechtes seinen Ausdruck empfieng. Da die absolute Regierungsgewalt die von einander unterschiedenen ständischen Rechte, in denen das ganze Recht und die Verwaltung nach Ständen gegliedert war, überwunden und die Herrschaft über alles Recht und alle Verwaltung, namentlich mit Hilfe des eudaimonistischen Polizeistaatsgedankens ausschliesslich für den Staat in Anspruch genommen hatte, so entstand auf dem Gebiete der praktischen Staatsorganisation und Staatsthätigkeit an Stelle der ständisch-corporativen die Nothwendigkeit der centralisierten sachlichen Gliederung für die verschiedenen Gebiete der staatlichen Aufgaben, die Nothwendigkeit der vorläufig wenigstens begrifflichen Sonderung der Thätigkeit der Gesetzgebung, des Richteramtes und der Vollziehungsgewalt, und die Nothwendigkeit der

praktischen Sonderung der verschiedenen Aufgaben der vollziehenden Thätigkeiten; es trat an die Stelle des ständischen das Realprincip für die ganze staatliche Ordnung und Thätigkeit auf.

Dadurch ergab sich eine scharfe Sonderung des Rechtes von der Politik, der Justiz von der Verwaltung, wenigstens in der Wissenschaft, und in Theorie und Praxis die Sonderung des Strafrechtes vom Civilrechte, die Unterscheidung von Strafrecht und Polizei, der Polizeistrafgesetze und der Verwaltungsgesetze.

Wie sehr diese heutzutage abgeklärten Begriffe und Gebiete damals durcheinandergiengen, kann man inbesondere auch daraus erkennen, dass Sonnenfels über die Fragen der Tortur und deren Abschaffung, ja sogar über die Frage der Todesstrafe anfänglich in den Vorträgen über die Polizei gehandelt hatte; und wie sehr die Gebiete in der Praxis durcheinandergiengen, kann man daraus ersehen, dass erst unter Maria Theresia die Oberste Justizstelle und erst unter Kaiser Josef die Appellationsgerichte als zweite judicielle Instanzen zur Absonderung des Gebietes der Justiz in den höheren Instanzen von den übrigen Gebieten der staatlichen Regierungsthätigkeiten begründet worden sind.[97]

Aus dieser Besiegung des ständischen Principes und der damit Hand in Hand gegangenen Besiegung des Provincialsystems, welcher Process für Österreich eine ganz ausserordentliche Bedeutung hatte und dem dadurch entstandenen Centralisationsprincipe und dadurch nothwendig gewordenen Realprincip der staatlichen Verwaltung gieng auch das Bestreben nach neuen codificierten Gesetzen hervor, beziehungsweise mit ihnen Hand in Hand.

Die österreichische Gesetzgebung und die österreichischen Rechtsgelehrten nahmen in diesem Processe der Klärung und Sonderung der Rechtsgebiete und der Verwaltungsgebiete eine sehr bedeutende und ehrenvolle Stellung ein.[98]

Der Process vollzog sich nicht bloss in Österreich, sondern auf dem ganzen civilisierten Continente, insbesondere auch in Deutschland und in Frankreich, und die Codificationsgeschichte in Österreich wie in den Ländern des preussischen Landrechtes und der fünf Codices in Frankreich sind Belege hiefür.[99]

Die grössten Verdienste um diesen Klärungs- und neuen geistigen Vereinigungsprocess hatten in Österreich wohl ZEILLER, FROIDEVAUX und PRATOBEVERA, aber auch JOSEF VON KUDLER nahm an der Entwicklung des Klärungsprocesses, insbesondere im Gebiete des Strafrechtes und der Volkswirtschaft theil.

KUDLER selbst schreibt über den Entwicklungsprocess des Strafrechtes in seinem Werke: „Bis zur Regierungsperiode des Kaisers Josef II. waren diejenigen strafbaren Handlungen, die nun als schwere Polizeiübertretungen erklärt sind, grösstentheils als blosse Übertretungen der Polizeigesetze theils in einzelnen zerstreuten, in verschiedenen Zeiten und daher auch in verschiedenem Geiste erlassenen Verordnungen verpönt, wobei die Bestrafung meistens nur der Art nach bestimmt, vielfältig aber auch deren Bestimmung ganz dem Ermessen der Behörden überlassen war, denen auch über das Verfahren mit den Beschuldigten keine eigene angemessene Vorschrift ertheilt wurde.

Manche dieser Handlungen erscheinen aber auch als Verbrechen bezeichnet in den peinlichen Gesetzen, wie denn mehrere in dieser Eigenschaft noch in der Theresianischen Halsgerichtsordnung vom 1. Jänner 1770 vorkommen.

„Da indessen das Gefühl der Mängel in der bestehenden Gesetzgebung (hauptsächlich über Verbrechen) immer mehr rege wurde; da man sich überzeugte, dass dieselbe mit den Grundsätzen und Forderungen des philosophischen Strafrechtes, welches in der zweiten Hälfte des letztverflossenen Jahrhunderts mit humanerem Geiste und mit auffallendem Erfolge bearbeitet wurde, nicht in Einklang stehen: so beschloss der für das Wohl seiner Unterthanen überhaupt und für die Verbesserung der Gesetze in allen Zweigen insbesondere so eifrig als rühmlich besorgte Kaiser JOSEF II. eine Umarbeitung des Strafgesetzes vornehmen zu lassen, und beauftragte damit die zur Compilierung der Gesetze bestellte Hofcommission."

„Der Entwurf derselben wurde aufmerksam geprüft, in einigen Punkten von dem Landesfürsten verbessert und am 13. Jänner 1787 das allgemeine Gesetz über Verbrechen und deren Bestrafung kundgemacht, wodurch die früheren über die nämlichen Gegenstände erlassenen Strafgesetze ausser Kraft gesetzt wurden."

KUDLER hebt an dem Josefinischen Strafgesetzbuche insbesondere „die so zweckmässige Absonderung der eigentlichen Verbrechen, d. i. der vorsätzlichen, unmittelbaren und wichtigeren Rechtsverletzungen von den unvorsätzlichen mittelbaren und minder wichtigen Verletzungen, soweit sich diese zur Aufnahme in das Gesetzbuch eigneten", hervor, indem die *erstgedachten* in den ersten Theil des Gesetzbuches als *Criminalverbrechen, die* letzteren in den zweiten Theil als politische

Verbrechen aufgenommen wurden, wornach aber allerdings für ganz verschiedenartige Delicte in dem Josefinischen Gesetzbuche noch die Bezeichnung von Verbrechen gewählt worden war, so dass Criminalverbrechen und politische Verbrechen unterschieden wurden, welch letztere eigentlich nur Übertretungen waren.

Die Criminalverbrechen wurden in der praktischen Sonderung den Criminalgerichten, die politischen Verbrechen den politischen Behörden überwiesen. „Ausserdem," hebt Kudler hervor, „wurde durch dieses Strafgesetz die Willkür der Richter auch bei den minder strafbaren Handlungen mehr, als es früher der Fall war, beschränkt, die Bestrafung nach Art und Grösse genau bestimmt, und mit einer meistens sehr angemessenen Abstufung verhängt."[100]

Da aber namentlich für die sogenannten politischen Verbrechen keine genauen Verhaltungsmassregeln gegeben waren, so wurde 1787 eine darauf bezügliche Instruction für die politischen Behörden über die Anstrengung einer Inquisition, Aburtheilung und Strafvollziehung wider einen eines politischen Verbrechens Beschuldigten erlassen.

Man sieht, dass KUDLER vom Josefinischen Gesetzbuche insbesondere die begonnene Sonderung der Begriffe und Gebiete lobend hervorhebt; aber dieselbe, und besonders schon die doppelte Bezeichnung von Verbrechen genügte noch nicht.

In diesem Gedankengang setzt KUDLER die Geschichte der Strafrechtsentwickelung in Österreich fort.

„LEOPOLD II. erkannte bald, dass das bestehende Strafsystem einer noch grösseren Vervollkommnung fähig sei. Einige zunächst vielleicht durch die verhältnissmässige Schnelligkeit, mit der das Josefinische Strafgesetzbuch zustande gebracht wurde, herbeigeführte Gebrechen desselben, die Menge der darüber erlassenen Erläuterungen und Zusätze, die Erfahrungen, die man darüber in der Anwendung gesammelt hatte, und endlich die veränderten Umstände und weiter fortgeschrittenen Einsichten gaben die nächste Veranlassung dazu." Es wurde daher die Erlassung eines neuen Strafgesetzbuches beschlossen, welches Werk unter der Regierung des Kaisers Franz II.[101] zustande kam.

Der zweite Theil dieses unter Kaiser FRANZ zustande gekommenen Gesetzbuches ist es nun, welcher den Gegenstand der wissenschaftlichen Bearbeitung KUDLERS bildet. Er hebt hervor, dass der mit Umsicht abgefasste und von der Justizgesetzgebungs-Hofcommission geprüfte Entwurf den in den Provinzen aufgestell-

ten Ländercommissionen, um ihr Gutachten einzuholen, vorgelegt, derselbe dann sammt den darüber eingegangenen Erinnerungen der aufmerksamen Prüfung der Hofcommission in Gesetzessachen unterworfen wurde, wobei bezüglich des zweiten Theiles über die schweren Polizeiübertretungen „der um Österreich vielfach verdiente damalige Hofrath von SONNENFELS das Referat führte". Der auf diese Weise verbesserte Entwurf wurde sodann dem Landesfürsten zur höchsten Schlussfassung vorgelegt, und nach einigen daran vorgenommenen Abänderungen, über welche noch vorläufig die Meinung der Hofcommission eingeholt wurde, ertheilte Se. Majestät demselben die höchste Sanction.

So wurde das Strafgesetz über schwere Polizeiübertretungen als zweiter Theil des Strafgesetzbuches zugleich mit dem über Verbrechen als ersten Theiles am 3. September 1803 kundgemacht, welches bis 1853 bestand.

Die im Josefinischen Strafgesetze aufgekommene Bezeichnung der schweren Polizeiübertretungen als „politische Verbrechen" war ganz eliminiert und KUDLER citiert ausdrücklich mit einer gewissen Genugthuung und Übereinstimmung das treffende Wort des Hofrathes von Zeiller:[102]

„Dürfen wir erwarten, dass der Bürger vor dem Gedanken eines Verbrechens zurückbeben soll, wenn mit diesem Worte auch eine fahrlässige Handlung, die dem Rechtschaffensten zur Schuld kommen kann, bezeichnet wird?"

Wenn allerdings auch heutzutage von politischen Verbrechen die Rede ist, so hat dies einen ganz anderen Sinn, als man im Josefinischen Gesetzbuch darunter verstand. Es ist das beiläufig derselbe Unterschied wie der, welcher heutzutage zwischen den „politischen Rechten" im engeren Sinne und dem Begriffe der „politischen Verwaltung" besteht.

Den ersten Theil des Strafgesetzes von 1803 hat zuerst Professor JENULL, den zweiten Theil haben Professor E. VON EGGER, FR. X. NIPPEL, und den allgemeinen Theil des ersten Abschnittes auch Professor W. G. KOPETZ commentiert, auf welche KUDLER sich bei seinem sehr gründlichen Werke bezieht.[103]

Von welchem Geiste das Werk des KUDLER durchdrungen ist, und dass in der That der zur Geltung gekommene Rechtsgedanke den grössten Einfluss auf seine Arbeit hatte, davon gibt schon der Satz ein klares Zeugnis:

„*Die* Sicherung der Rechte, und zwar sowohl jener des Staates *selbst, als auch* seiner einzelnen Glieder (physischer und mora-

lischer Personen), ist die nächste und dringendste Angelegenheit für jede bürgerliche Gesellschaft. Um diese Aufgabe zu lösen, müssen die zu schützenden Rechte genau bestimmt und jede Verletzung derselben untersagt werden."

Von diesem Gedanken ist das ganze Werk Kudlers erfüllt, und man muss sagen, dass er auf die Darstellung der eigenthümlichen Natur und Grundbestimmungen der schweren Polizeiübertretungen die grösste Sorgfalt gelegt und jenen Hauptsatz über den Schutz der Rechte nie vergessen hat!

Sein Werk ist bis zum Jahre 1841 in fünf Auflagen erschienen, die sechste Auflage, welche 1848 erschien, war von dem damaligen Professor, dem seither fortwährend um die Juristenwelt in Österreich hochverdienten FREIHERRN VON HYE, besorgt.

Das zweite Hauptwerk von KUDLER ist das Werk: „Die Grundlehren der Volkswirtschaft",[104] in welchem sich ebenfalls der in der deutschen Wissenschaft vollzogene Klärungs- und Sonderungsprocess sehr sichtbar zeigt. Er wendet gegen Sonnenfels' „Grundsätze der Polizei, Handlung und Finanz" mit klarer Erkenntnis Folgendes ein:

„Der Verfasser lieferte mit demselben eigentlich ein Handbuch der Wohlstandspolitik, dessen Principien aber, da kein Unterricht in der theoretischen Volkswirtschaftslehre vorausgieng, gewissermassen in der Luft schwebte." „Die Wissenschaft hat aber seit dessen Erscheinen die grössten Fortschritte gemacht; neue Systeme wurden aufgestellt; so manche Irrthümer der früheren Doctrin vielfach widerlegt; hochwichtige Fragen über die Natur des Capitales, über die Stellung der Arbeiter ihren Lohnherren gegenüber, über Eisenbahn-, Zollvereine, Zettelbanken, über das Verhältnis der Consumtion zur Production u. dgl. wurden theils ganz neu angeregt, theils mit weit grösserer Sorgfalt als früher behandelt; ja man kann sagen, die theoretische Volkswirtschaftslehre sei erst seit jener Zeit als selbständige Wissenschaft ausgebildet worden." Und das ist richtig; denn auch bei ADAM SMITH war die theoretische und praktische Volkswirtschaftslehre nicht klar von einander getrennt,[105] welche Klärung und Scheidung erst in der deutschen Wissenschaft und besonders durch RAU[106] vollzogen wurde.

In praktischer Richtung weist KUDLER darauf hin, dass man gleichzeitig die Staatsverwaltungen selbst die engen Schranken des alten Systems durchbrechen, das Prohibitiv- und Bevormundungssystem nach und nach aufgeben und ihren

Ländern freiere ökonomische Bewegung zugestehen gesehen habe. Das bis dahin immer noch vorgeschriebene Lehrbuch von SONNENFELS war daher nicht mehr entsprechend, konnte vielfach nur kritisch behandelt werden, und KUDLER gieng daran, ein neues zu schreiben. Das Werk KUDLERS sollte, wie er sich bescheiden ausdrückt, ein Versuch sein, den gedachten Übelständen abzuhelfen.

Obgleich das Werk zunächst nur ein Elementarwerk sein sollte, welches in den mündlichen Vorträgen weiter ausgeführt werden und als Grundlage weiterer Studien dienen sollte, so hat er doch selbst die strengsten Anforderungen daran gestellt. „Vor allem muss ich bemerken, dass meine eigenen Anforderungen an ein völlig entsprechendes Lehrbuch der politischen Ökonomie so hoch gestellt sind, dass ich selbst befürchten muss, meine Kräfte seien nicht zureichend gewesen, sie zu befriedigen."

In der Ausführung hat er sich insbesondere auf die trefflichen Werke von RAU, LOTZ, HERMANN, BÜLAU, namentlich auch auf A. SMITH, J. B. SAY, STORCH und JACOB, sowie anderer gestützt, so dass er im ganzen die Smith'sche Richtung einhält.

Dabei wohnt ihm ein starker Zug zur praktischen Volkswirtschaft inne, worüber er sich selbst in folgender Weise ausspricht: „Man hat es schon lange aufgegeben, die Volkswirtschaftslehre als eine blosse Metaphysik der menschlichen Betriebsamkeit zu behandeln. Da man Völker überall nur in staatsgesellschaftlichen Vereinen wirtschaften sieht, so kann man sich bei der Betrachtung ihres Wirtschaftssystems nirgends davon lossagen, die Einwirkung, welche dieser gesellschaftliche Verband und seine Institutionen darauf nehmen, mit in Erwägung zu ziehen." „Man überzeugt sich immer mehr, dass die Wirtschaft im Staate, sowie alle wichtigen Lebensfunctionen der Gesellschaft von der Idee des Staates durchdrungen und so geleitet werden müssen, dass sie mit den übrigen Zwecken der Gesellschaft im Einklange stehen und, wo es möglich ist, deren Erreichung fördern. Man kann sich daher mit der Behandlung der sogenannten reinen Nationalökonomie nicht begnügen, wenn es auch unbestritten ist, dass eine allgemeine Güterlehre als eine für sich bestehende Doctrin bearbeitet werden kann." . . . „Durch diese Betrachtungen geleitet, habe ich für das vorliegende Werk die Abtheilung in einen theoretischen und praktischen Theil der *Wissenschaft* gewählt, wofür wohl auch die Autorität RAU'S das *Wort spricht.*" — Wir können, wie ich meine, in dieser Betonung

der praktischen Nationalökonomie eine Vorempfindung der socialen Bedeutung der nationalökonomischen Fragen erblicken. Diese von der deutschen Wissenschaft ausgeführte Sonderung war, wie bereits bemerkt, auch von ADAM SMITH noch nicht vollzogen; und gerade aus der Verbindung allgemeiner Lehren mit positiven Einrichtungen stammt wohl auch ein grosser Theil neuerer Bekämpfungen des Smith her, von welchem aber CARL MENGER klar nachgewiesen hat, dass seine Lehren den Interessen der Arbeiterschaft bei weitem nicht so nachtheilig sind, wie es so oft behauptet wird.

Von einem pragmatischen Zuge geleitet, trägt KUDLER eine förmliche Geschichte der Volkswirtschaftslehre vor, indem er nach einem Blick auf die Vorzeit (die Griechen und die Römer) die neueren Perioden, das Mercantilsystem, das physiokratische System und das System der freien Industrie nacheinander behandelt, und er ist der erste, welcher allerdings unter dem nicht zutreffenden Gesammtnamen „Communistische Systeme" die Lehren von SAINT-SIMON, OWEN, FOURIER in Österreich behandelt hat, wobei er sich insbesondere auf den entsprechenden Artikel im Staatslexikon von ROTTEK und WELCKER stützt und in den Literaturangaben nebst den Originalwerken jener Autoren auch das 1842 erschienene Werk seines Nachfolgers in Österreich LORENZ VON STEIN: „Der Socialismus und Communismus des heutigen Frankreich" anführt, sowie auf die Schrift OELKERS: „Die Bewegung des Socialismus und Communismus" (Leipzig 1844) hinweist. Weitere Consequenzen zieht er im Verlaufe des Werkes daraus nicht. — Wichtig erscheinen für seine wissenschaftliche Einsicht und Klarheit auch seine Bemerkungen über die immateriellen Güter:

„In Betreff der immateriellen Güter bin ich absichtlich nicht weiter gegangen, als das Bedürfnis der Volkswirtschaft es erheischte. Ich halte dafür, dass die sittliche und intellectuelle Bildung als einzelne Hauptzwecke der bürgerlichen Gesellschaft, dem Zwecke der Gelangung zum Wohlstande nicht eingeschaltet, sondern in der wissenschaftlichen Darstellung als coordiniert behandelt werden sollen. Neben der Wohlstandspflege und nicht als Theil derselben soll daher die Culturpolitik stehen." Und so gestaltet, hoffte er auch sie vielleicht künftig als selbständige Wissenschaft ans Licht treten lassen zu können.

Es ist dies eine neue, klare Sonderung des Bildungswesens *als eines* besonderen Gebietes von den übrigen Zweigen

der politischen Verwaltung, welche unter dem Titel der Polizei bei Sonnenfels noch vereinigt waren.

Im Jahre 1848 hörte seine Lehrthätigkeit auf, wobei er zunächst von Dr. CARL GISKRA suppliert wurde. KUDLER wurde in den ersten österreichischen constituierenden Reichstag und sein Supplent in das Frankfurter Parlament gewählt. Im österreichischen constituirenden Reichstage trat KUDLER nicht sehr häufig als Sprecher auf. Es sind aber doch einige Reden, die er bei der Debatte über die Feststellung der „Grundrechte" im Plenum des Reichstages zu Kremsier gehalten hat, sehr bemerkenswert, namentlich eine Rede über die Frage der Wiederaufnahme des strafrechtlichen Verfahrens bei Freisprechungen durch die Schwurgerichte,[107] welche er am 23. Jänner 1849, — eine Rede über die Frage der Abschaffung oder Einschränkung der Todesstrafe,[108] welche er am 25. Jänner 1849, — und eine Rede über die §§ 13, 14 und 15 der Grundrechte, mit welchen den österreichischen Staatsbürgern die Glaubensfreiheit gewährleistet und das Verhältnis zwischen Staat und Kirche festgesetzt werden sollte, welche er am 14. Februar 1849 hielt.[109] Er hat auch noch sonst einige Reden gehalten, sie sind aber weniger bedeutungsvoll, und es ist nur bemerkenswert, dass er die Verzögerungen der Berathung und Beschlussfassung über die Verfassungsrechte hintangehalten wissen wollte.

Bezüglich der Gerichte überhaupt und der Schwurgerichte insbesondere hatte der Reichstagsausschuss den Antrag gestellt: „§ 5. Das Verfahren vor dem erkennenden Gerichte in Civil- und Strafsachen ist öffentlich und mündlich. Die Ausnahmen bestimmt das Gesetz."

„In Strafsachen gilt das Anklageprincip. Schwurgerichte haben jedenfalls bei Verbrechen, bei politischen und Pressvergehen zu erkennen."

„Niemand darf wegen einer strafbaren Handlung, rücksichtlich deren er bereits durch das Geschwornengericht nicht schuldig erklärt wurde, nochmals in Untersuchung gezogen werden, ausgenommen den Fall der Cassation des ganzen Verfahrens."

KUDLER, welcher zu diesem Antrage das Wort ergriff, führte in seiner Rede aus: „Ich betrachte als die höchste Aufgabe der bürgerlichen Gesellschaft die Realisierung des Rechtes." Das Rechtsgesetz fordert aber, dass der Schuldige *zur verdienten* Strafe gezogen werde. Die Aufgabe der Strafgesetzgebung ist zuletzt, die Sicherheit im gemeinen Wesen

herzustellen und zu erhalten, durch Strafandrohung gegen die Bösgesinnten zu wahren."

Weil es nun aber geschehen könne, dass der Thatbestand bei Behandlung vor dem Schwurgerichte nicht deutlich genug vorlag und ein wirklich Schuldiger nur aus dem Grunde, weil einige Beweismittel fehlten, schuldlos gesprochen werden könnte, so wollte KUDLER in dem Falle, als neue Beweismittel hervorkommen, eine Wiederaufnahme des Verfahrens platzgreifen lassen und stellte diesfalls einen Zusatzantrag. „Soll denn das Schwert des Damokles beständig über dem Haupte eines Mannes schweben, der das Unglück gehabt hat, eines Verbrechens verdächtigt zu werden?", wirft er sich selbst ein und antwortet: „Die Gefahr vor diesem Schwerte ist nach meinem Zusatze nicht grösser, als sie für uns alle ist, wohl aber viel kleiner." Sein Zusatzantrag aber lautete, es solle zu dem letzten Satze des § 5: „Niemand darf wegen einer strafbaren Handlung, rücksichtlich derer er bereits durch das Geschwornengericht nichtschuldig erklärt wurde, nochmals in Untersuchung gezogen werden, ausgenommen den Fall der Cassation des ganzen Verfahrens" noch folgender Zusatz beigefügt werden: „es sei denn, dass der Ankläger neue Beweismittel geltend zu machen imstande wäre und im Falle der wiederholten Freisprechung die Leistung voller Genugthuung für den Angeklagten auf sich nimmt."

Der Antrag wurde genügend unterstützt, nach mehrfach dagegen, insbesondere in den Reden von LASSER und dem Berichterstatter RIEGER gemachten Bemerkungen jedoch bei der Abstimmung des Hauses abgelehnt, eine Entscheidung, welche wohl ebensowenig vollständig zutreffend war, als der Antrag des KUDLER selbst ganz der Sache entsprach. Die Entscheidung, welche nach der gegenwärtigen, nach GLASERS Initiative geschaffenen Strafprocessordnung im § 355 getroffen ist, regelt diese Frage zum Theile in Anlehnung an den Kudler'schen Gedanken in der Hauptsache doch viel richtiger und präciser, mit alleiniger Ausnahme des Entschädigungsanspruches.[110]

Bedeutender war KUDLERS Rede und einen grösseren Erfolg hatte er bei der Frage über die Abschaffung der Todesstrafe.

Der Antrag (§ 6) des Verfassungsausschusses lautete:

„Eine Strafe kann nur durch gerichtlichen Spruch nach einem zur Zeit der strafbaren Handlung schon bestandenen Gesetze verhängt werden."

„Die Todesstrafe für politische Verbrechen ist abgeschafft."

„Die Strafen der öffentlichen Arbeit, der öffentlichen Ausstellung, der körperlichen Züchtigung, der Brandmarkung, des bürgerlichen Todes und der Vermögensentziehung dürfen nicht angewendet werden."

In seiner Rede zu diesem Paragraphen sagte Kudler:

„Über den ersten Absatz des § 6 möchte ich mich nicht wie ein geehrter Redner vor mir dahin ausdrücken, es könne nicht schaden, wenn er stehen bleibe. Ich sehe ihn vielmehr als das Palladium der bürgerlichen Freiheit an. Niemand soll verantwortlich gemacht werden, ausser infolge eines Gesetzes. Es liegen in dieser Beziehung unangenehme Erfahrungen vor, auf welche auch schon verehrte Redner vor mir hingewiesen haben."

In Bezug auf die Todesstrafe sagt er:

„Bei der Frage der Todesstrafe weiss ich wirklich nicht, soll ich der Wichtigkeit derselben, oder der Schwierigkeit, sie zu lösen, ein grösseres Gewicht beilegen. Mich hat der Paragraph darüber in seinem zweiten Absatze nicht befriedigt; ich bin mit dem Grundgedanken einverstanden, allein vielleicht bin ich auf einem anderen Wege zu meiner Überzeugung gekommen.

Politische Verbrechen, meine Herren, sind verschieden zu beurtheilen, nach dem Zustande der Gesellschaft, in dem sie vorkommen, nach den Beweggründen, die dazu verleitet haben."

Und nun zeigt er, dass unter den sogenannten politischen Verbrechen ein grosser Unterschied sei, „es ist der Begriff ‚politisches Verbrechen' bei uns noch keineswegs so bestimmt und ausgemacht, dass darüber kein Zweifel übrig bliebe, und ein Umstand, der vielleicht einige Ungewissheit hineingebracht hat, war der, weil man in Österreich verbrecherische Verbrechen und politische Verbrechen gekannt hat."

Er greift auf das Josefinische Strafgesetzbuch zurück, führt den wichtigen Zweifel an: wenn mit einem politischen Verbrechen ein gemeines Verbrechen verbunden ist oder der Thatbestand eines anderen Verbrechens concurriert, soll dann auch noch die mildere Behandlung eintreten? und erklärt:

„Ich glaube indessen, man sollte die ganze Frage hier, wo sie in den Grundrechten zur Sprache kommt, noch höher fassen."

„Ich habe mir zuerst die Frage gestellt: warum soll denn in den Grundrechten von der Todesstrafe überhaupt die Rede sein?"

Und nun bringt er ein ausführliches Plaidoyer für die gänzliche Aufhebung der Todesstrafe vor, in welcher er zahlreiche [illegible]s der Theorie und Gründe aus der Praxis anführt, wor-

auf er den Antrag stellt, dass die beantragte Einschränkung, dass die Todesstrafe nur bei politischen Verbrechen abgeschafft werden soll, zu entfallen habe, dass daher die Todesstrafe überhaupt gänzlich abgeschafft werden soll.

Bezüglich der im dritten Satze des Antrages zu verbietenden Strafen erklärte er:

„Endlich muss ich sagen, der Gebrauch des Stockes, der Peitsche, der neunschwänzigen Katze sind doch nichts mehr als Appellationen an das Thierische im Menschen, sie behandeln den Menschen thierisch; wir wollen aber den Anforderungen der Humanität entsprechen, eingedenk der Worte des grossen Dichters:

„Von der Menschheit, Freund, kannst Du nie gross genug denken;
Wie Du im Herzen sie trägst, prägst Du im Handeln sie aus".

Nach dem Antrage Kudlers sollte also der Absatz 2 einfach lauten:

„Die Todesstrafe ist abgeschafft."

Den Absatz 3, wegen der Abschaffung der dort genannten Strafen, nahm er vollständig an.

Es wurden noch viele Reden über die Frage gehalten.

Bei der in der 80. Sitzung des Reichstages am 29. Jänner 1849 mittels Kugelabgabe vollzogenen Abstimmung wurde der Antrag Kudlers angenommen.

Über das Resultat der Abstimmung enuncierte der Präsident:

„Für das Amendement: „Die Todesstrafe ist abgeschafft", haben gestimmt 197 Abgeordnete, gegen das Amendement 106. Das Amendement ist demnach mit einer Mehrheit von 91 Stimmen angenommen."

Das war wohl Kudlers glänzendster parlamentarischer Tag!

Es muss hier bemerkt werden, dass Wurzbach in seiner biographischen Skizze über Kudler diese Sache geradezu verkehrt darstellt, indem er bemerkt, dass Kudler bei der Verhandlung über die Todesstrafe gegen deren Abschaffung gesprochen habe, während er die Abschaffung der Prügelstrafe beantragte. Der Irrthum Wurzbachs rührt davon her, dass Kudler bei der Liste der Redner unter den Rednern „contra", gegen den Antrag, aufgeführt erscheint. Er war aber als Redner gegen den Ausschussantrag angeführt, nicht als Redner gegen die Aufhebung der Todesstrafe, welche er vielmehr gegen die Einschränkung des Ausschussantrages ganz allgemein beantragt hat.

Zu den §§ 13, 14 und 15 hielt Kudler noch eine bedeutende Rede, in welcher er in sehr sachlicher Weise für die Glaubensfreiheit und nach einer sehr gründlichen Erörterung des *jus in* und des *jus circa sacra* für das *jus circa sacra* des Staates, zur Regelung der äusseren Ordnung der confessionellen Verhältnisse eintrat.

Als eine weitere bedeutende Arbeit KUDLERS sind auch die von ihm bereits im Jahre 1834 herausgegebenen sogenannten Kudler'schen Tabellen hervorzuheben, in welchen er den staatlichen Organismus der gesammten österreichischen Monarchie in übersichtlicher Weise darstellte und diese Darstellung mit einer eingehenden Erläuterung versah.[111]

Diese Kudler'schen Tabellen sind das beste und übersichtlichste Werk, welches für die Darstellung des ganzen Organismus aller Verwaltungszweige der gesammten österreichischen Monarchie mit Einschluss der ungarischen Länder vor dem Jahre 1848 erschien.

Ausserdem ist — nebst seiner Biographie des ZEILLER — noch eine Abhandlung KUDLERS: „Über Gesetze, welche die Zinsenforderung im Privatverkehre beschränken" hervorzuheben, welche er im Jahre 1851 im Octoberhefte der Sitzungsberichte der philos.-histor. Classe der kaiserlichen Akademie der Wissenschaften publicierte und in welcher er für die gänzliche Abschaffung aller Zinsengesetze eintrat.[112]

Als mit der im Jahre 1849 erfolgten Organisierung der akademischen Behörden das Vicedirectorat erlosch, wurde Kudler Vorstand des Professorencollegiums der rechts- und staatswissenschaftlichen Facultät der hiesigen Universität und darauf Präses der Staatsprüfungscommission, allgemeine Abtheilung in Wien.

Seine Wirksamkeit an der Wiener Universität reichte also nahe bis an die Zeit, wo LORENZ VON STEIN als Professor an der juridischen Facultät der Wiener Universität auftrat.

Die Schüler Kudlers bewahrten ihrem Lehrer allezeit, wie es selbst durch Überlieferung bekannt ist, eine grosse Pietät.

Sein Nachfolger **Lorenz von Stein,** der bereits in einem besonderen Feste gefeiert wurde, reiht sich im Entwicklungsgange der Geschichte und der Wissenschaft in glänzender Weise an seine Vorgänger an, und so soll sich auch die Enthüllung seines Denkmals der Enthüllung der zwei anderen Denkmäler heute mit anschliessen.

Wenn man an seine Leistungen und die Verdienste denkt, die er sich durch die Darstellungen der socialen Ideen zuerst, dann durch seine nationalökonomischen Werke, durch die Werke über die Finanzwissenschaft, durch das grosse Werk über die Verwaltungslehre und durch unzählige andere kleinere Schriften, durch ununterbrochene continuierliche Thätigkeit erwarb, wenn man nur an einige seiner Lehren, wie z. B. an die Lehre von der staatsbürgerlichen Zeit, von der aufsteigenden Classenbewegung u. s. w. erinnert, so wird man zugestehen, dass er sich nach den zwei Sternen SONNENFELS und KUDLER als ein dritter Stern ersten Ranges in den politischen Wissenschaften erhob.

Und so soll denn auch seine Feier am heutigen Tage mit der Enthüllung seines Denkmales in der Ehrenhalle unserer Universität ihre Vollendung finden. Es ist dies eine Ehrenschuld für uns und ein Ruhm, es zu thun; denn wie GOETHE von seinem Freunde SCHILLER, so können wir von STEIN sagen:

„Denn er war unser! Mag das stolze Wort
Den lauten Schmerz gewaltig übertönen,
Er mochte sich bei uns, im sichern Port,
Nach wildem Sturm zum Dauernden gewöhnen!“

Und von allen drei aufeinander gefolgten Männern müssen wir sagen, dass sie wie ein glänzendes Dreigestirn der politischen Wissenschaft geleuchtet, die Aufgabe der Wissenschaft in herrlicher Weise erfüllt, die „Fackeln des Lebens“ in begeisterter und begeisternder Weise vorangetragen haben.

So sollen denn ihre Marmorbilder neben- und miteinander in der Ehrenhalle unserer herrlichen Universität glänzen für immerdar!

„So feiert sie! Denn was dem Mann das Leben
Nur halb ertheilt, soll ganz die Nachwelt geben.“

Anmerkungen.

1. Prof. Dr. L. Pfaff: Rede auf Franz von Zeiller, gehalten am 26. April 1891 bei der Enthüllung der in den Universitätsarkaden aufgestellten Büste Zeillers. Wien, 1891.

2. Prof. Dr. A. v. Miaskowsky: Lorenz von Stein. 1891.

3. Josef von Sonnenfels war als der erste Sohn des Perlin Lipmann geboren, der, von Berlin nach Österreich ausgewandert, sich nach Eisenstadt in Ungarn begeben, dann zu Nikolsburg in Mähren niedergelassen hatte, wo seine Söhne geboren wurden, von denen der jüngere im Geburtsbuch vom Jahre 1735 eingetragen erscheint. Perlin Lipmann trat mit seinen Söhnen zum Christenthum über, wobei er den Namen Alois Wiener, der ältere Sohn den Namen Josef, der jüngere den Namen Franz erhielt. Vgl. Const. Wurzbach, Biographisches Lexikon, Bd. 35 (1875), S. 317 f.; Alf. v. Arneth, Maria Theresias letzte Regierungsjahre, Bd. 3 (1879), S. 200 f.; Franz Kopetzky, Josef und Franz von Sonnenfels, 1882, S. 2 f.; Willibald Müller, Josef von Sonnenfels. 1882. (Biographie S. 1—48.)

4. Immanuel Kant, Beantwortung der Frage: „Was ist Aufklärung?" 1784. (Gesammtwerke 1838, Bd. I, S. 109 f.)

5. Wurzbach a. a. O., Bd. 35, S. 318; v. Arneth a. a. O., S. 200 f. Kopetzky a. a. O., S. 11; Willibald Müller a. a. O., S. 5 u. 6. Die eine der an der Seite der damals neuerbauten Aula liegenden Strassen wurde später nach ihm „Sonnenfelsgasse" getauft.

6. Josef von Sonnenfels: „An mein Herz", Biographische Mittheilungen, Bd. I, Gesammelte Schriften, Einleitung. „Nach der Wiederkehr zum bürgerlichen Stande hub meine ernstere Verwendung an. Sind Aufklärungen und geläuterte Grundsätze das grösste Geschenk des Lebens, so werde ich Riegern und Martini stets als diejenigen betrachten, die vorzüglich zu meiner Wohlfahrt beigetragen haben. Diese in den Jahrbüchern der Nationalerleuchtung merkwürdigen Männer lehrten mich zuerst denken. Auf ihren liebreichen Unterricht habe ich den Bau der Kenntnisse, wenn ich immer Kenntnisse besitze, als auf seine erste Veste gegründet."

7. Vgl. Roscher, Geschichte der Nationalökonomik in Deutschland, 1874, S. 534.

8. Sonnenfels erhielt die Stelle nicht, weil sie schon Joh. Sigm. Valentin Popowitsch innehatte, der wohl mehr Naturforscher als Sprachforscher war. Vgl. Wurzbach, Bd. 35, S. 319; Kopetzky, Sonnenfels, S. 15; Willibald Müller, Josef von Sonnenfels, S. 10. Über Popowitsch vgl. Wurzbach, Bd. 23, S. 108. Wahlberg, Gesammelte kleinere Schriften, Bd. 2. „Die Reform der Rechtslehre an *der Wiener Hochschule* seit deren Umwandlung zu einer Staatsanstalt unter Sonnen*fels*", *S. 28—38.*

9. Eine grosse Zahl guter deutscher Worte schuf er sich neu, die auch heute in Umlauf gebracht werden könnten, so z. B. „Schiebewand" für Coulisse, „Eintreiber" für Executor, „Schutzrede" für Plaidoyer u. s. w. Er hatte sich den Geist der deutschen Sprache gut eigen gemacht, wovon auch sein Brief an Adelung, mit welchem er 1784 im sechsten Bande seiner Gesammelten Schriften die Fortsetzung der Briefe über die Wiener Schaubühne einleitet, Zeugnis gibt, und er war stolz darauf, dass er einen anerkennenden Brief von Gellert erhalten hatte. Auch waren ihm nach dieser Richtung, mehr als Popowitsch, der lieber lateinisch schrieb, die deutschen Classiker bis Lessing und von den Lehrern der Staatswissenschaften Joh. Heinr. Gottl. Justi ein Sporn zur Nacheiferung, welcher am 16. des Wintermonates 1750 seine Vorlesungen im k. k. Theresianum mit einer Antrittsrede: „Von dem Zusammenhange der Vollkommenheit der Sprache mit dem blühenden Zustande der Wissenschaften" eröffnet hatte und 1855 eine Anweisung zu einer guten deutschen Schreibart und allen in den Geschäften und Rechtssachen vorfallenden schriftlichen Ausarbeitungen publiciert hatte (Leipzig 1755). Bekanntlich war Thomasius der erste, welcher Universitätsvorträge in deutscher Sprache hielt.

10. „Das Opfer, ein Schäferspiel in einem Aufzuge. Auf die Geburtsfeyer Marien Theresiens. 1761." (Sonnenfels' Gesammelte Schriften, Bd. 9, S. 141 ff.)

11. Diese am 13. Mai 1762 in der feierlichen Versammlung der Deutschen Gesellschaft gehaltene Rede auf Maria Theresien, in welcher er in edlem Stile die hohen Tugenden und Regierungshandlungen der Maria Theresia pries und in geschickter Weise damit auch das Lob ihrer Rathgeber, eines Daun und Liechtenstein, eines Kaunitz und van Swieten, sowie des neuerrichteten Staatsrathes zu verbinden wusste, hat ihm offenbar viel Gunst erworben und kann vielleicht als die erste Einleitung zur Erlangung einer Lehrkanzel der politischen Wissenschaften in Österreich bezeichnet werden. Sie wurde später in den Chrestomathien für die Mittelschulen in Österreich als Muster einer deutschen Rede vorgeführt.

12. Vgl. Wurzbach, Bd. 35, S. 320; Kopetzky a. a. O., S. 28—38, wo die Anstellungs- und Gehaltsfragen sehr ausführlich erörtert sind, insbesondere die autobiographischen Fragmente des Sonnenfels selbst, welche auch Willibald Müller in der Biographie desselben S. 12—29 im vollen Wortlaute mittheilt. — „Durch Sonnenfels erhielt die Sache der politisch-kirchlichen Reform einen merklichen Impuls," vgl. Kink, Geschichte der k. Universität Wien, 1854, I, S. 496; auch Wahlberg, Die Reform der Rechtslehre an der Wiener Hochschule seit deren Umwandlung zu einer Staatsanstalt (Gesammelte kleinere Schriften, Bd. 2, S. 28 f.), welcher namentlich über die von Sonnenfels vor Besteigung der Lehrkanzel vorgelegte „Probeschrift", die er seine Habilitationsschrift nennt, eingehende Mittheilungen bringt. Mit der Ernennung von Lehrkanzeln für die Staatswissenschaften gieng man rasch vorwärts, so dass Sonnenfels schon in seinem Briefe an Klotz vom 24. Juli 1769 schreiben konnte: „Ich habe schon sechs Schüler von mir in unsere Provinzen als Lehrer der Cameralwissenschaften gesendet und diese Lehrstühle hat man erst gestiftet, also habe ich Grund zu erwarten, dass meine Grundsätze allgemein verbreitet werden."

13. Schon Ignaz de Luca hat im Jahre 1777 eine Anzahl politischer Abhandlungen von Sonnenfels gesammelt herausgegeben, welche für die allgemeinen Lehren von grösserer Wichtigkeit sind, eine von der Handlungsgeschichte, einen Versuch über das Verhältnis der Stände, vom Maut- und Zollwesen, über die Bevölkerung, vom Zusammenflusse und von der Theuerung in grossen Städten. Die vier letzteren und die Abhandlung über die neun Handlungsgrundsätze Englands hat

Sonnenfels selbst dann im X. Bande seiner gesammelten Schriften zusammengestellt; sie bilden wesentliche Grundlagen seiner Ansichten und können als ein allgemeiner Theil seiner Grundsätze angesehen werden.

14. Sonnenfels selbst sagt in dem der Ausführung, womit er den ersten Theil seines Lehrbuches überreichte, beigelegten Majestätsgesuche: „Eure k. k. apostolische Majestät geruhten mich endlich zu der Cameralprofessur anzuweisen. Ich hatte damals einen meiner Anwendung zwar nicht angemessenen Dienst bei der k. k. Arcierengarde und von diesem einen kleinen Gehalt von ungefähr 400 Gulden. Die Wissenschaft, die nun mein Beruf ward, forderte meine ganze Zeit eigens und ward mit meiner bekleideten Stelle unverträglich. Ich musste mir eine Menge neuer Bücher anschaffen, ich ward ausser Stand gesetzt, sonst irgend etwas zu verfolgen, und ich sehe mich in den betrübten Umständen, kein Brot zu haben, als was mir nun schon durch so lange Jahre bis in mein dreissigstes die Liebe meines Vaters reichet.“ Vgl. auch Kopetzky, S. 32.

15. Sonnenfels' gesammelte Schriften, Bd. 1; Kopetzky, S. 49 f. bis 51. „Der Vertraute“ wurde auf Befehl der Kaiserin verboten. van Swieten, dem die Censur der periodischen Schriften zufiel, sah sich genöthigt, die Berechtigung der Satyre zu vertreten. (Fournier, Gerhard van Swieten als Censor, S. 427.) Zu seinem Briefe vom 9. März 1765 bemerkte die Kaiserin: „Die Welt ist jetzt so leichtfertig, so wenig nachsichtsvoll, alles wird ins Lächerliche und Kleinliche gezogen. Unsere Deutschen verlieren dadurch die besten Eigenschaften, die sie hatten, nämlich ein wenig schwerfällig und rauh, dafür aber gerade, aufrichtig und einfach zu sein. Aus diesem Grunde will ich den ‚Vertrauten‘ nicht weiter fortsetzen lassen.“

16. Sonnenfels hat die Ausgabe in den gesammelten Werken (I., II. u. III. Bd. und Anhang im IV. Bd. mit einem Schreiben: „An die Gesellschaft der Bescheidenen“, worunter er die „Deutsche Gesellschaft“ verstand, eingeleitet, worin er von dieser Ausgabe sagt: „Der Mann ohne Vorurtheil enthält also nach ihrem Rathe im Gange, in der Ordnung keine wesentliche Änderung; kleine bloss ephemere Stücke fallen hinaus, aber sonst sei er, wie er war, ein Ganzes aus Bruchstücken mehr, als sich genau fügenden Theilen zusammengesetzt“; — womit er den Charakter der Wochenschrift und der Ausgabe in den gesammelten Schriften selbst andeutet. Sachlich ist er bei Herausgabe seiner Wochenschriften und insbesondere beim „Mann ohne Vorurtheil“ wohl von J. H. v. Justi beeinflusst gewesen, welcher eine grosse Zahl von „Scherzhaften und satyrischen Schriften“ publiciert hatte, die er 1765 etwas vermehrt in drei Bänden bereits in zweiter Auflage zu Berlin und Leipzig herausgab, wobei er jeden Band in vier Abtheilungen: Briefe, Satyren, allegorische Vorstellungen und prosaische Oden, Fabeln und Erzählungen getheilt hatte. Im Bd. 3, 3. Abth. kommt eine humoristisch-allegorische Darstellung über „die Beschaffenheit und Verfassung der Republik der Gelehrten“ und darin eine Stelle vor, welche auch zum Titel der Sonnenfelsischen Wochenschrift in Beziehung steht: „Die Vernunft ist die höchste Göttin in der gelehrten Republik und ihre Verehrung macht den Gottesdienst der Gelehrten aus.“ — „Es gibt noch einige Untergottheiten, die gleichfalls in der gelehrten Republik verehrt werden. Diese sind der Witz, der gute Geschmack, die Gründlichkeit und die Deutlichkeit.“ — „Jeder Gelehrte glaubt, dass die höchste Göttin, die Vernunft, ihr Heiligthum in seinem Gehirn aufgeschlagen habe.“ — „Allein, weil sich doch die elenden Scribenten in der That irren, so ist es nöthig, dass wir den Grund ihres Irrthums untersuchen. Man muss demnach wissen, dass sich gemeiniglich das Vorurtheil, der Feind der Göttin Vernunft, des Gehirns der kleinen Geister bemächtigt. Das magere

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Wissen lockt diesen seinen Freund so lange, bis er an seiner Seite Platz nimmt. Es ist vorlängst in der Naturlehre der Gelehrten ausgemacht, dass das magere Wissen mehr Schwere hat als alle andern gelehrten Körper."

17. Die Rede über: „Die letzten Tage Theresiens", gehalten als erste Vorlesung nach ihrem Tode und die erste Vorlesung im Jahrgange 1782, eine Rede auf Kaiser Josefs Regierung (beide im VIII. Bd. der Gesammelten Schriften), hängen innerlich zusammen. Die erste schildert in sehr rührender Weise den Tod Maria Theresiens und wurde viel stärker als jene Rede gekauft, welche Sonnenfels 1762 auf Maria Theresia gehalten hatte. In dem Schreiben an Josef von Retzer, welcher den Vortrag auf Kaiser Josef zuerst in Druck gegeben hatte, sagt Sonnenfels bei der Ausgabe in den Gesammelten Schriften selbst von den Reden auf Theresia: „Meine Rede auf Maria Theresia erschien im Jahre 1763. Ohne meiner Arbeit Verdienst zuzuschreiben, wenigstens war sie für dieselbe Zeit eine seltene Literaturerscheinung, deren Anziehung durch den beliebten Gegenstand erhöht wurde. Wie viel Abdrücke, glauben Sie, dass Herr v. Kurzböck in Wien absetzte? Mehr nicht als zwei, und auf diese Art kam er um die Verlagskosten. Die erste Vorlesung nach Marien Theresiens Tod, wovon das Stück für zwölf Kreuzer verkauft ward, brachte in ungefähr sechs Tagen etwas über neunhundert Gulden ein." (Gesammelte Schriften, Bd. 8, S. 108.) Die Rede auf Kaiser Josef II. von 1782 lässt sehr deutlich den mächtigen Eindruck spüren, welchen die energische Thätigkeit Josefs in den ersten zwei Jahren seiner Regierung überall und auch auf Sonnenfels gemacht hat. Vgl. Gesammelte Schriften, Bd. 8, S. 101 f. — Josef von Retzer, welcher die Rede zuerst publicierte, hat in einem Vorwort Sonnenfels den österreichischen Addison genannt, sich selbst mit Thomas Tikell, dem Herausgeber von Addisons Werken, verglichen, was Sonnenfels im Vorworte zur eigenen Ausgabe quittierte. — Wie unangenehm dagegen dem Sonnenfels die Veröffentlichung seiner Briefe an Klotz war, sieht man daraus, dass er sich sogar beim Verhöre wegen des veröffentlichten Votums über die Folter darauf bezog und auch in seiner Selbstbiographie davon noch schmerzliche Erwähnung thut.

18. Das merkwürdigste Seiten-, ja Gegenstück zu anonymen Publicationen, bei welchem der Herausgeber für den Anonymus eintritt, war wohl die Publication der „Fragmente eines Unbekannten" von Lessing, welche zu dem berühmten, für die Gedanken- und Pressfreiheit hochwichtigen Kampfe Lessings gegen Pastor Götze Veranlassung gab.

19. Im „Mann ohne Vorurtheil" tritt Sonnenfels, wo sein Wilder nicht ausreicht, zunächst als „der Unparteiische" auf, und später, am Schlusse des ersten Jahrganges, wo er nicht mehr kleine, sondern „schädliche Vorurtheile", die ihre Zerstörung oft bis in die Burg der allgemeinen Glückseligkeit verbreiten, zu bekämpfen in Aussicht nimmt, tritt er ganz mit der eigenen Person hervor: „Nicht Capa-Kaum, ich — bin derjenige, der sich durch Nachdenken bis auf einen gewissen Grad über den Dunstkreis der Vorurtheile zu erheben und die Gegenstände ohne Zufälligkeiten, bloss nach dem Endzwecke und den daher entspringenden nothwendigen Bestimmungen zu betrachten bemüht." (Gesammelte Schriften, Bd. 3, S. 208.) Von da an beginnt er auch die Betrachtungen mehr in Abhandlungen einzukleiden.

20. Sonnenfels, Gesammelte Schriften, 1784, Bd. 4, S. 120.

21. Während Sonnenfels in der Vernehmung vor der Commission den Herausgeber des Votums nicht zu kennen erklärt, — vgl. Kopetzky a. a. O., S. 220 f.; Willibald Müller a. a. O., S. 137 f.; Wahlberg, Gesammelte kleinere Schriften, Bd. 2, — er-

klärt er bei der Herausgabe seiner Vorstellung und seines Votums über die Abschaffung der Folter in den Gesammelten Schriften (Bd. 7 im Vorworte) ganz ausdrücklich: „Ich weiss nun den würdigen Freund, durch welchen diese Schrift das erste Mal zum Drucke befördert worden. Ich würde ihn öffentlich nennen und der Versicherung meines Dankes noch die Versicherung beisetzen, dass die Trennung so vieler Jahre und zwischen uns liegender Provinzen nichts von der Hochachtung vermindern konnte, die mir sein vortrefflicher edler Charakter eingeflösst hat. Aber ich halte mich ohne seine Einwilligung zu dieser, wiewohl freundschaftlichen Verrätherei nicht berechtiget." Übrigens ist auch der Vorbericht, womit die erste Ausgabe des Votums eingeleitet war, so echt Sonnenfelsisch, dass ich gerade so wie Willibald Müller nicht daran zweifle, dass er selbst ihn stilisiert hatte. (Vgl. auch Müller, Josef von Sonnenfels, S. 139.)

22. Willibald Müller, Josef von Sonnenfels (1882), S. 103.

23. Die Aufsätze der Wochenschrift sind auch ihrem Charakter nach sehr verschieden, bald scherzhaft, bald ernst. Sehr ernst sind zum Beispiel die Behandlung der Asyle, der Verhältnisse der erwerbenden Stände, sehr lustig die Schilderung der Krankheitszustände derjenigen, welche von der epidemischen „Gnadensucht" ergriffen werden, welche Krankheitsbeschreibung dem Dr. Unzer, Verfasser einer beliebten Wochenschrift, „Der Arzt" angedichtet wird. (Gesammelte Schriften, Bd. 3, S. 9—18.)

24. „Briefe über die Wiener Schaubühne von einem Franzosen", Sonnenfels' Gesammelte Schriften, Bd. 5 u. 6.

25. „Noch hat es ihr nicht gelungen, sich den Eintritt in die Gesellschaften des hohen Adels zu eröffnen. Sie ist, habe ich oft hören müssen, nicht reich, nicht geschmeidig genug, die Sprache der feineren Welt zu sein. Ein Mensch, der fähig ist, Vergleichungen zwischen Sprachen anzustellen, weiss das Gegentheil. Er weiss, dass die deutsche mehr eigenthümliche Wörter als beinahe jede andere hat. Er weiss, dass sie sich unter den Händen eines geschickten Schriftstellers schmiegt. Bei ihm also wird dieser Vorwand nicht gelten. Er wird vielmehr zu sich sprechen: sie schämen sich zu gestehen, dass sie ihre Landessprache zu wenig kennen, um sie zur Sprache des Umganges zu machen; und so bemänteln sie ihr schwaches Kenntniss durch die Verachtung." („Der Mann ohne Vorurtheil", XVIII. Stück. Gesammelte Schriften, Bd. 1, S. 285.)

26. „Der Mann ohne Vorurtheil", III. Abtheilung, XIV. Stück. Gesammelte Schriften, Bd. 3, S. 126.

27. Vgl. die sehr umfangreiche, charakteristische Stelle in den Gesammelten Schriften, Bd. 3, S. 135 f.

28. Da Sonnenfels die III. Abtheilung der Wochenschrift „Der Mann ohne Vorurtheil" bereits im Jahre 1767 herausgab und Lessing seine „Hamburger Dramaturgie" ebenfalls 1767 schrieb, so dürfte Sonnenfels bei Verfassung der Abhandlungen im „Mann ohne Vorurtheil" Lessings „Dramaturgie" noch nicht gekannt haben, wohl aber hat er sie bei Verfassung der Briefe über die Wiener Schaubühne, welche er erst 1768 herausgab, bereits gekannt oder doch während der Herausgabe dieser Briefe kennen gelernt, wie aus der Beziehung auf Lessings Worte bei der Titelfrage sicher hervorgeht. Vorher hat Sonnenfels bei der Frage der Einheiten die Einheit des Ortes wenigstens für jeden Act, die Einheit der Zeit in der Weise, dass die ganze Handlung sich nicht über 36 Stunden erstrecken soll, neben der Einheit der *Handlung gefordert*. Lessing hat indessen gezeigt, dass die strenge Forderung der *dreifachen Einheit* bei den Griechen mit der Verwendung des Chores zusammen-

hieng, welcher bei den Neueren fehlt, weshalb nur die Einheit der Handlung, und Charakterdarstellung, als Hauptforderung bleibt; „die strengste Regelmässigkeit kann den kleinsten Fehler in den Charakteren nicht aufwiegen".

29. Briefe vom 27. Wintermonats 1767, vom 28. Wintermonats 1767. insbesonders vom 5. Jänner 1768 und vom 15. Jänner 1768, in welch' letzterem Briefe er auch beifügt: „Nach meiner Weise möchte ich die Setzart Glucks die charakteristische nennen und sehr wohl wünschen, dass sie unter den Tonkünstlern so viele Nachfolger fände, als sie sich unter den Liebhabern der Musik, deren Gefühl durch die sibaritische Harmonie der italienischen Tonkunst nicht verwöhnt ist, Bewunderer erworben hat." — Auch im Briefe vom 15. Jänner 1768 spricht er von der „gewöhnlichen, überladenen und geschminkten Opernmusik". (Gesammelte Schriften, Bd. V., S. 150 f.)

30. Briefe vom 13. März, 18. März, 23. März und 1. April 1768. (Gesammelte Schriften, Bd. 5, S. 308—358.)

31. Sonnenfels bemängelt die Stelle (6. Auftritt, 5. Aufzug), in welcher von der Liebe und ihrer Tochter, dem Mitleid die Rede ist, „die ein wenig in das Kostbare schlägt", und die Stelle, wo Tellheim in Schwermuth zerstreut auf eine Anspielung der Minna auf Othello frägt: „Aber sagen Sie mir doch, mein Fräulein, wie kam der Mohr in die venetianischen Dienste? Hatte der Mohr kein Vaterland?" Sonnenfels bemerkt: „Lessing wollte die äusserste Schwermuth des Majors charakterisieren und lässt ihn Unsinn sprechen, das begreife ich, aber ob Shakespearischer Unsinn die Schwermuth charakterisiere?" — Bezüglich der ersten Stelle hat Sonnenfels Recht, bezüglich der zweiten aber Unrecht; es entgeht ihm der Charakterzug, dass Tellheim selbst in seiner Zerstreutheit noch an das Vaterland denkt! Wie denn, wenn dem Tellheim das Vaterland auch dann noch einen Wert hätte, wenn er Minna, sein Glück, verlieren sollte?

32. Vgl. Lessing, Anti-Götze, II.

33. Beaumarchais und Sonnenfels von Alf. R. v. Arneth, 1868.

34. Sonnenfels' Aufsatz: „Über die Liebe des Vaterlandes", Gesammelte Schriften, Bd. 5; Recension Goethes, Sämmtliche Werke bei Cotta in Stuttgart, Ausg. 1857, Bd. 32, S. 83; 1872, Bd. 13, S. 323; Kopetzky a. a. O., S. 179 f. theilt die Recension Goethes vollständig mit und schliesst ein anderes Urtheil über Sonnenfels aus Miegs Freimüthigen Briefen, Frankfurt und Leipzig 1774, S. 184 an. — Goethes Recension fällt in die Zeit, wo der kraftstrotzende 22jährige Goethe in den „Frankfurter Anzeigen" auch den Leuchsenring in „Pater Brey", Basedow in „Satyros oder der vergötterte Waldteufel", Bahrdt im „Prolog zu den neuesten Offenbarungen Gottes" verspottete und Wieland mit seinem durch die „Alceste" errungenen Triumph in „Götter Helden und Wieland" persiflirte.

35. Sonnenfels, Gesammelte Schriften, Bd. 5, insbesondere S. 54, 66, 76, 77—80, 82 u. 88.

36. Josef Feil, Sonnenfels und Maria Theresia, Sylvesterspende für Freunde zum Neujahr 1859; Dr. C. Frh. v. Hock, Der österreichische Staatsrath (1879), Abschaffung der Tortur, S. 44—47, über die Frage der Todesstrafe, S. 47 f.; vgl. auch Wahlberg, Gesammelte kleinere Schriften, Bd. 2. Zur Geschichte der Aufhebung der Tortur in Österreich, S. 265 f.; D. W. Lustkandl, Die Josefinischen Ideen, 1881, S. 15 u 97; Fr. Kopetzky a. a. O., S. 74 f.; Willibald Müller a. a. O., S. 128 f.

37. Solche Disputationen wurden öfters gehalten und die Sätze publiciert. So wurden der ersten Publication der „Theuerung in grossen Städten" in Österreich „LX Sätze *aus der sämmtlichen* Polizeiwissenschaft" vorangeschickt, welche A. J. Be-

dekowich im grossen akademischen Hörsaal zu vertheidigen übernommen hatte; der ersten Ausgabe des Sonnenfels'schen Werkes: „Von dem Ursprunge und Wachsthume der Handlung", Wien 1769, wurden je 12, zusammen 36 Sätze aus der „Polizei, Handlung und Finanz" vorangeschickt, welche Leop. Edler v. Plenciz in der Savoy'schen Ritterakademie zu vertheidigen bereit war.

38. Feil, Sonnenfels und Maria Theresia, Sylvesterspende 1859, S. 11 f., auf welchen sich auch Arneth, Kopetzky, W. Müller beziehen.

39. Feil a. a. O., S. 15 macht ausführliche Mittheilung über die Eingabe des Erzbischofs, zu welcher v. Arneth (Maria Theresias letzte Regierungsjahre, Bd. 3, S. 204) unter Beziehung auf bestimmte Stellen das Urtheil fällt: „Mit all der Leidenschaft eines Fanatikers erklärte er der Kaiserin, die katholischen Monarchen hätten zu allen Zeiten Lehrer wie Sonnenfels und ihre Lehren verabscheut: dem Staate wie der Jugend gereichten sie gleichmässig zum Nachtheil und Verderben." „Es kommt mir sehr hart an," schliesst der Cardinal seine Anklageschrift, „wider jemanden Eurer Majestät Vorstellungen zu machen, da ich mit heiterer Stirne sagen kann, viele vertheidigt, niemanden aber wenigstens vorsätzlich geschadet zu haben, allein ich bin in so betrübte Umstände versetzet, dass ich keinen Ausweg mehr finde, entweder Gott oder den Menschen zu missfallen." Kopetzky a. a. O., S. 74–78.)

40. Feil, Sylvesterspende, 1859, S. 19 u. 20; Willibald Müller, Josef von Sonnenfels, S. 116.

41. Feil, a. a. O., S. 21 u. 22; Müller, S. 117.

42. Feil S. 22; Arneth, a. a. O., S. 207.

43. Sonnenfels, Gesammelte Schriften, Bd. VII; Feil a. a. O., S. 24 f., ganz mitgetheilt; Arneth a. a. O., S. 208 f.; Wahlberg, Gesammelte kleinere Schriften, Bd. 2, S. 265; Kopetzky a. a. O., S. 202 f.

44. Sonnenfels, Gesammelte Schriften, Bd. 7, 2. Abth., S. 22.

45. Augustin Nicolas, Si la torture est un moyen sûr à verifier les crimes, 1682. Ich wurde auf dieses in Hélies französischer Übersetzung des Beccaria citirte Werk durch Professor Lammasch aufmerksam gemacht. Im ersten Theile seiner Selbstbiographie bezieht sich Sonnenfels auf seinen Kampf gegen die Folter, citirt den bekannten Satz des Grotius: „Der Unglückliche auf der Folterbank wird lügen, wenn er die Marter zu ertragen, und lügen, wenn er sie nicht zu ertragen fähig ist." „Mentietur, qui ferre potuerit, et qui ferre non potuerit, mentietur."

46. C. A. de Martini: Positiones de Jure Civitatis in usum Auditorii Vindobonensis. Editio altera 1773, CI.VIII, S. 75: „Tortura est actus, quo corpus de crimine graviore valde suspecti tormentis adficitur, ut ad confessionem facti adigatur. Qui torquetur, malum perfert passionis ob malum actionis, nondum satis probatae, plurimi autem dolore compulsi crimina in se mentiti sunt, et nonnulli extremos potius perferunt cruciatus, quam ut scelera sua confiteantur. Hinc generatim tortura remedium veri eliciendi ineptum est." Die Lehrbücher des Martini wurden später ins Deutsche übersetzt und sowohl der „Lehrbegriff des Naturrechtes" als auch das „Allgemeine Recht der Staaten" zum Gebrauche der öffentlichen Vorlesungen in Wien 1797 herausgegeben.

47. Wahlberg, Gesammelte kleinere Schriften, Bd. 2. Zur Geschichte der Aufhebung der Tortur in Österreich, S. 263 f.

48. Willibald Müller a. a. O., S. 135.

49. Arneth, Die Wiener Universität unter Maria Theresia, S. 34; Wahlberg, *Zur Geschichte* der Aufhebung der Tortur, S. 269; Kopetzky a. a. O., S. 214.

50. Sonnenfels, Gesammelte Schriften, Bd. 5. Das Votum über die Folter. (S. 37 f.). Über die Folter zur Entdeckung der Mitschuldigen s. § 22 des Votums: Bd. 5, S. 115—118. Sonnenfels führt die Gegengründe ausdrücklich an: „Ein berühmter Schriftsteller (Beccaria, Von Verbrechen und Strafen), dessen beinahe eigene Worte in dem Unterrichte zur Verfertigung des Entwurfes zu einem neuen Gesetzbuche für Russland eingeschaltet sind, findet sie (die Bedenklichkeiten) zwar auch in diesem Falle. Da die Folter," spricht er, „kein taugliches Mittel ist, die Wahrheit zu entdecken, wie soll sie zur Entdeckung der Mitschuldigen beitragen? Sollte der Mensch, der sich selbst anklagt, nicht leichter noch andere anklagen? Ist es billig, einen Menschen wegen der Verbrechen anderer zu quälen?" Obgleich Sonnenfels diese Einwendungen selbst anführt, kommt er doch zu seinem obigen Satze.

51. Sonnenfels sucht die Gründe für das Recht und für die Sicherheit auszuführen, es ist ihm aber nicht gelungen. Vgl. a. a. O., S. 117 u. 118.

52. „Über die Abschaffung der Tortur," von Sonnenfels, k. k. n.-ö. Regierungsrath und öffentlicher Lehrer der politischen Wissenschaften. Zürich, bei Orell, Gessler, Fuessli & Comp. 1775.

53. Wahlberg, Zur Geschichte der Aufhebung der Tortur, a. a. O., S. 267 u. 268; Kopetzky, Josef und Franz von Sonnenfels, S. 221 u. 222; Willibald Müller, Josef von Sonnenfels, S. 138. Infolge der mehrfach erhaltenen Rügen hat Sonnenfels die Vorlesungen im Jahre 1772 mit einer Rede: „Von der Bescheidenheit im Vortrage seiner Meinung" eröffnet (Gesammelte Schriften, Bd. 8, S. 205 f.), in welcher er sich zulässig bescheiden über die Bescheidenheit ausspricht, so dass einem Goethes Wort: „Nur Lumpe sind bescheiden", einfallen kann.

54. Dr. C. Freiherr von Hock, Der österreichische Staatsrath, Bd. 1, 1879, Abschaffung der Tortur, S. 44—47; v. Arneth a. a. O., S. 212 u. 213; Dr. W. Lustkandl, Die Josefinischen Ideen, 1881, S. 15.

55. Sonnenfels, Gesammelte Schriften, Bd. 5. Abh. II, S. 131; Lustkandl a. a. O., S. 97. Trotz seiner Erklärung ist aus des Sonnenfels Briefe doch eine gewisse Eifersucht gegen Lessing und gegen Beccaria herauszufühlen.

56. Sonnenfels, „Über die Stimmenmehrheit bei Criminalurtheilen". Zweite sorgfältig übersehene, durch zahlreiche Erörterungen, wie auch durch die Aufnahme und Beantwortung der erschienenen Beurtheilungen und Einwürfe vermehrte Auflage. Wien, 1808. Bei dieser Sorgfalt, mit welcher er jeden Schuldspruch über ein begangenes Verbrechen nur mit Stimmeneinhelligkeit zulässig erklärt wissen will, ist es um so auffallender, dass er gegen das Anklageprincip und namentlich gegen die Zulässigkeit von Vertheidigern sich mit Heftigkeit sträubt (s. besonders S. 15—24 dieses Werkes), wobei er sich insbesondere gegen Delolme und Filangieri wendet.

57. Roscher, Geschichte der Nationalökonomik in Deutschland, S. 536. Über das Verhältniss zu Justi sprach sich Sonnenfels selbst schon vor Eröffnung seiner Vorlesungen aus. Er hatte mit Decret vom 16. April 1763 den Auftrag erhalten, das Buch, nach welchem er Cameralvorlesungen halten wolle, zu bestimmen und nebst Anmerkungen der Hofcommission zur Einsicht vorzulegen. In dem Majestätsgesuche, womit er die Probeschrift vorlegte, gab er die Gründe für die Wahl des Lehrbuches von Justi an: „Obwohl nicht jedermann Justi zu seinem Lehrbuche gewählt und vielleicht ich lieber Bielefelds „Lehrbegriff der Staatsklugheit" vorgezogen haben würde, wenn der Titel für die Bescheidenheit des Lehrers nicht zu prächtig gewesen wäre, bin ich für Justi, weil keines der vorhandenen Lehrbücher die erforderliche Allgemeinheit hat und das Justische Buch mehr als jedes andere auf die Erbländer passt, indem dasselbe während der Zeit seiner Professur im Theresianum ver-

fasst und der Grundriss desselben von dem Directorio generali in publicis et cameralibus revidiert wurde." Auch kommt hinzu, dass nicht selten Paradoxa in diesem Lehrbuche gelehrt wurden, welche widerlegt werden müssen, da Justi in Cameralsachen Ansehen habe. Vgl. Wahlberg, Die Reform der Rechtslehre an der Wiener Hochschule, in der Wochenschrift für Wissenschaft, Kunst und öffentliches Leben, 1865, abgedruckt in den Gesammelten kleinen Schriften, Bd. 2, S. 31 f.; Kopetzky, Sonnenfels, S. 31—34. — Justi war übrigens der erste, welcher die Polizeiwissenschaft von der Politik mit Bewusstsein schied. „Die Polizei," sagt er, „die ich hier abhandle, ist zeither so wenig bearbeitet worden, dass ich mit Grund behaupten kann, dass ich gegenwärtig das erste System einer Polizei liefere, worinnen diese Wissenschaft vollständig von anderen Wissenschaften abgesondert und in einem auf die Natur der Sache gegründeten Zusammenhang erscheint. Der gemeinste Fehler in Ansehung der Polizei ist zeither gewesen, dass man dieselbe mit der Staatskunst in eine Brühe geworfen und untereinander abgehandelt hat." Grundsätze der Polizeiwissenschaft, Göttingen, 1759, 2. Auflage. — Justi hat aber der Polizei noch die ganze Sorge für die Cultivierung der Länder, für die Verbesserung des Nahrungsstandes, für gute Zucht und Ordnung zugewiesen, aus welchen dann Sonnenfels die Sorge für die Nahrungswege als „Handlungswissenschaft" von der „Polizei" absonderte. — Bielfeld hat in seinen „Institutions Politiques", 1760, in Bd. 1 von den inneren, in Bd. 2 von den äusseren Verhältnissen des Staates, von dem Völkerrecht gehandelt. In Bd. 1 hat er merkwürdigerweise die Finanzen nach den Lehren von der Polizei und vom Ackerbau und vor denen von Manufacturen und Handel gestellt, also zwischen Ackerbau und Manufacturen behandelt, obschon bereits Justi die Finanzen als Cameralwissenschaft klar gesondert hatte.

58. Sonnenfels, Grundsätze der Polizei, Handlung und Finanz, fünfte vermehrte und verbesserte Auflage, I. Th. 1786, II. Th. 1787, III. Th. 1787. Ich citiere im Folgenden stets nach der fünften Auflage der Grundsätze, welche die vollständigste ist und vorgeschriebenes Lehrbuch bis zur Zeit Kudlers, nominell sogar und an anderen Universitäten auch thatsächlich bis 1848 blieb. Sie war bisweilen im Buchhandel nicht vorräthig und es sind von Sonnenfels gebilligte Auszüge des Werkes an anderen Orten publiciert worden, so z. B. ein Auszug unter dem Titel: „Tabellarischer Entwurf über die Grundsätze der Polizei, Handlung und Finanz" als ein Leitfaden des politischen Studiums nach der fünften Auflage, Brünn, 1791, welche dem k. k. Gubernialrath und Kreishauptmann Leopold Ludwig Schulz von Strassnitzky zugeschrieben wird. Roscher citiert in seiner Geschichte der Nationalökonomik die dritte Ausgabe der Sonnenfelsischen Grundsätze.

59. Sonnenfels, Grundsätze, I. Th., Allgemeine Einleitung, §§ 2, 3, 4, 5, 11—22. Man empfindet zwar, dass Sonnenfels durch die Betonung der Einheit des Endzweckes ein Princip für den ideellen Inhalt des Staates gewinnen will, allein da er als solches doch nur die Wohlfahrt, wenn auch die auf das allgemeine Beste gerichtete öffentliche Wohlfahrt aufstellt, so kommt er über Justi und die Polizeistaatsidee nicht hinaus. Der „Endzweck des Staates" zergliedert sich nach ihm in vier grosse Hauptgeschäfte, wornach auch die Staatswissenschaft in vier Wissenschaften sich sondert. Diese vier untergeordneten Endzwecke sind: „Die äussere Sicherheit, die innere Sicherheit, die Vervielfältigung der Nahrungswege und die Behebung der zum Staatsaufwande nöthigen Einkünfte." Die Grundsätze, nach deren Anleitung die äussere Sicherheit der Staaten gehandhabt wird, lehrt die Staatsklugheit oder Politik. Die Grundsätze, die innere Sicherheit zu gründen und zu *erhalten, lehrt* die Polizeiwissenschaft. Die Vervielfältigung der Nahrungswege,

durch einen vortheilhaften Umsatz dessen, was das Erdreich und die Emsigkeit hervorbringen, lehrt die Handlungswissenschaft, und die Finanzwissenschaft endlich zeigt, auf welche Weise die Staatseinkünfte auf das vortheilhafteste gehoben werden sollen. — Man sieht, das Recht und die Rechtswissenschaft fällt aus dem Endzwecke des Staates und den Gebieten der Staatsthätigkeiten eigentlich ganz hinaus oder wird wenigstens so sehr abgesondert, dass man bei der Behandlung des Staatszweckes an dasselbe nicht denkt.

60. Immanuel Kant, „Kritik der praktischen Vernunft", Gesammtwerke, (Bd. 4. „Die Metaphysik der Sitten" I. Th., Rechtslehre: Metaphysische Anfangsgründe der Rechtslehre, besonders die Begriffe der Moralität (Sittlichkeit), der Legalität Gesetzmässigkeit) (Bd. 3, S. 17) und das öffentliche Recht. (Gesammtwerke, Bd. 5, besonders §§ 47—49.)

61. Allerdings bemerkt Sonnenfels selbst hiezu (§ 27): „Ich muss die Unbestimmtheit zu vermeiden suchen. Die Bevölkerung enthält alle Mittel, welche die gemeinschaftliche Wohlfahrt befördern, alle Anstalten des Regenten sollen sich gleichsam darauf zuspitzen, die Volksmenge zu erhalten, zu vergrössern. Diese Volksmenge hat indessen ebenfalls ihre Grenzen oder ein sogenanntes Maximum und diese Grenzen sind von der Natur der Staaten, von der politischen und physikalischen Lage und den Umständen vorgezeichnet. Indessen . . . entkräftet dies den Satz nicht, dass die Regierung die Bevölkerung auf das Höchste zu treiben bemüht sein soll, auf das Höchste nämlich, als durch die in ihrer Gewalt stehenden Mittel möglich ist."

62. Gesammelte Schriften, Bd. 10, 5. Abhandlung, S. 371 f.

63. Von der Theuerung in grossen Städten und dem Mittel derselben abzuhelfen. Erste österreichische Ausgabe, Wien, 1770. De Luca, Sonnenfels' politische Abhandlungen, 1777, 6. Abhandlung; Gesammelte Schriften, Bd. 10, 1. Abhandlung. — Von ähnlichen Gedanken und von der Furcht vor geistigem Proletariat ist auch sein zur Eröffnung der Vorlesungen im Jahre 1771 gehaltener Vortrag: „Über den Nachtheil der vermehrten Universitäten" erfüllt. (Gesammelte Schriften, Bd. 8, 5. Abhandlung, S. 243 f.)

64. Vgl. Roscher, Geschichte der Nationalökonomik, S. 538; de Luca, Politische Abhandlungen, 1777, 3. Abhandlung; Sonnenfels, Gesammelte Schriften, Bd. 10, XXXX Sätze über die Bevölkerung: VIII.: „Strenge Auswanderungsgesetze gereichen nicht zum Lobspruche einer Regierung, sie geben dem Staate das Ansehen eines Kerkers, wo man die Gefangenen mit Gewalt zurückhalten muss, dass sie nicht flüchtig werden." IX.: „Wo die Arbeitsamkeit bei dem Rechte zu erwerben geschützt, wo die Gesetze sanft, die Abgaben mässig, wo Freiheit und Eigenthum gesichert sind, . . . da lasse man auswandern, wer seiner Wohlfahrt überdrüssig werden kann." XI.: „Da der Regent die Auswanderung nach seinen Kräften zu verhindern bemüht sein soll, so muss er um desto weniger dergleichen selbst veranlassen oder befehlen. Frankreich und Spanien empfinden noch immer die schädlichen Folgen solcher gezwungenen Auswanderungen." XII. (S. 381): „Hieher rechne ich auch die Landesverweisungen, welche, ohne die Absicht der Strafe zu erfüllen, der gemeinschaftlichen Masse der Arbeitsamkeit zwei Hände entziehen, die man nutzbar beschäftigen könnte. Vielleicht lässt diese Betrachtung sich auch auf die Todesstrafen ausdehnen, bei denen der Schade immer auf den Staat selbst mit zurückfällt." — Über die Bestimmungen des Josefinischen Gesetzbuches, insbesondere über die Rechte der unehelichen Kinder vgl. Schlötzers Staatsanzeigen, Bd. 5, 17. Heft, S. 106 f.; Pfaff-Hofmann, besonders die S. 18, Note 86 angeführte Schrift:

„Sonnenklarer Commentar des sonnenklarsten Buchstaben der neuen Gesetze, von Herrn Schlendrian, Obersten Richter zu Tropos, Wien, 1788; Lustkandl, Die Josefinischen Ideen, S. 52 f. u. S. 106 f.

65. Christian Wolf, Jus naturae, methodo scientifica pertractatum 1740 bis 1749 (9 Quartbände), editio altera 1746. Institutiones juris naturae et gentium. Halae, 1750. Von Wolf wird nicht bloss die Pflicht zur Arbeit, sondern es werden auch die tiefsten Eingriffe in die persönliche Freiheit mit der Sorge für das gemeine Wohl gerechtfertigt; vgl. Jus naturae, Bd. 8, c. 3, Institutiones § 1017 f.; vgl. auch C. Bluntschli, Geschichte des allgemeinen Staatsrechtes und der Politik, 1864, S. 221.

66. Sonnenfels, Grundsätze der Polizei, Bd. 1, § 12, S. 43 f.

67. „Ein patriotischer Traum", Gesammelte Schriften, Bd. 9, 13. Abhandlung, S. 287—358.

68. Dies geschieht auch in der fünften Auflage der Grundsätze 1786 noch, obgleich Sonnenfels in seiner Rede auf Kaiser Josef II. 1782 die Aufhebung der Leibeigenschaft und die von Josef gestattete Pressfreiheit gepriesen hatte, und es ist bemerkenswert, dass Sonnenfels mit bestimmtem Hinweis auf die Areopagitica des Milton und die politischen Essays des Hume die Ansichten dieser Autoren über die Pressfreiheit bekämpft. (Grundsätze I, 94 u. 95.) Obgleich er unter der Censur selbst zu leiden gehabt hatte, kann er es nicht los werden, dass er selbst schon Bücher- und Theatercensor geworden war. Es war dieser Rückschlag für die Censur auch bereits eingetreten, bevor die Excesse der französischen Revolution einen allgemeinen Horror erregt hatten, wovon des Sonnenfels spätere Schrift: „Betrachtungen eines österreichischen Staatsbürgers an seinen Freund, veranlasst durch das Schreiben des Herrn v. M. an Herrn Abbé Sabatier über die französische Republik", Wien, 1793, Zeugnis ablegt.

69. Der Ausdruck „policierte Nation" war ein förmlicher Kunstausdruck, der bei vielen Autoren vorkommt, und galt beinahe mehr als der heutige Ausdruck „civilisierte Nation."

70. Sonnenfels, Bemerkungen über die für die Hauptstadt Wien und den Umkreis derselben innerhalb der Linien erlassene Neue Gesindeordnung, Wien und Triest, 1810, Bd. 1, 309 Seiten.

71. Sonnenfels bezieht sich gelegentlich selbst auf den „Emil" von Rousseau. Von Goethes „Wilhelm Meister" vgl. man die „Wanderjahre", letztes Capitel, von der Erziehung in der neuen Colonie. Sonnenfels handelt schon im „Mann ohne Vorurtheil" ausführlich von der Erziehung, bringt nebst Bemerkungen über die Königin Svanvita zahlreiche angebliche Auszüge aus „Kirdatans" Gesetzbuch, sowie positive Vorschläge, insbesondere über die Grenzen des elterlichen Rechtes, über gemeinschaftliche Erziehungsanstalten u. s. w. vor und alteriert sich, dass die Erziehung damals noch keine allgemeine staatliche Leitung hatte: „Sehet die Pferde des Regenten, die Küche, die Jagd, jedes ihrer Bedürfnisse, jede ihrer Ergötzlichkeiten haben eigene Vorsteher, die Erziehung hat keine! — Wer hat das Herz zu sagen, dass alle diese Dinge für wichtiger anzusehen sind als die Bildung der heranwachsenden Bürger, mit deren guten oder bösen Sitten die Wohlfahrt oder der Untergang der Staaten, der Ruhm oder die Schande der Nationen heranwächst?" („Der Mann ohne Vorurtheil", 2. Jahrgang, Fortsetzung 3, XII. Abschnitt; Gesammelte Schriften, Bd. 3, S. 339.)

72. Die Frage des Arbeitslohnes berührt er schon im „Mann ohne Vorurtheil"; in den Grundsätzen der Handlung unter dem Gesichtspunkt der Pflicht, *Arbeit und Erwerb* zu geben, wobei als Elemente des Arbeitslohnes die Unterhalts-

kosten der Arbeiter nebst einem kleinem Überschusse erklärt werden (Bd. 2, S. 148), dann im 3. Theile der Finanzwissenschaft unter dem Gesichtspunkt, dass die erzielende und arbeitende Classe von der Last des ausserordentlichen Aufwandes auch unmittelbar ganz enthoben bleiben soll (Bd. 3, S. 187); vgl. auch Roscher, Geschichte der Nationalökonomik, S. 540. — Mit diesen Gedanken des Sonnenfels kann man die Gedanken des Smith über den Arbeitslohn, besonders V. Buch, c. II (deutsche Ausgabe von Max Stirner, 1847, Bd. 4, S. 226) vergleichen.

73. Sonnenfels, Gesammelte Schriften, Bd. 2, S. 180; vgl. Justi.

74. Gesammelte Schriften, Bd. 2. S. 237.

75. „Betrachtungen über die neun Handlungsgrundsätze Englands", Sonnenfels, Gesammelte Schriften, Bd. 10, Abhandlung III, S. 185 f.

76. Vgl. Grundsätze II, c. II, V, XI, XIII und die besondere Abhandlung über Mauten und Zölle. Gesammelte Schriften, Bd. 10, Abhandlung IV, S. 285 f.

77. Vgl. de Luca, Josef von Sonnenfels, politische Abhandlungen, Wien, 1777: Vom Maut- und Zollwesen; Sonnenfels, Gesammelte Schriften, Bd. 10, Abhandlung IV: „Von Mauten und Zöllen" (S. 285—370), besonders VIII. Abschnitt, S. 338: „Aber diese Verbote, die so rechtmässig sind und so nothwendig scheinen, sind nicht allemal dem wahren Vortheile eines Staates am zuträglichsten: sie sind oft schädlich und beinahe niemals nothwendig. Weit entfernt, dass die Verbote den Inländer von einem nachtheiligen Zusammenflusse befreien sollten, so sind sie vielmehr ein Mittel, die Nacheiferung bei denselben zu ersticken. Man wird also durch das Verbot die Vollkommenheit der inländischen Producte nicht befördern; man wird sie hindern und den ganzen Verbrauch derselben auf einen inländischen Zwangabsatz herabsetzen." Vgl. Grundsätze der Polizei, Handlung und Finanz, II. Theil, c. II: Von Manufacturen, § 192—196, S. 281—290.

78. Vgl. „Von Mauten und Zöllen", Abschnitt XI, S. 357 f. „Grundsätze", II. Theil, c. II, § 203, c. V, §§ 229—233, wobei er insbesondere die berühmte englische Schiffahrtsacte preist, welche unter Olivier Cromwell errichtet und im Jahre 1660 bestätigt wurde, obgleich alles, was „der Usurpator" sonst verordnet hatte, von Karl II. für ungiltig erklärt worden, und welche zum Hauptzwecke hatte, allen fremden Schiffen und vorzüglich den Holländern die Frachten mit den englischen Waren und nach den englischen Häfen zu entziehen. Man vergleiche hier insbesondere auch A. Smith, IV. Buch, c. II.

79. „Von Mauten und Zöllen", XIII. Abschnitt, S. 362—365. „Grundsätze" (II. Theil, § 57, S. 73; § 141, S. 195 und anderwärts.

80. Roscher, Geschichte der Nationalökonomik, S. 541; Sonnenfels, Grundsätze, II. Theil, c. XIV, § 354, S. 578 f.

81. Hiebei stützt er sich auf Hume und nimmt abermals Stellung gegen die Physiokraten: „Lasst uns," sagt Hume (in dem Versuch über die Handlungsbilanz), „sorgfältig den Vortheil der Bevölkerung und der Beschäftigung erhalten, und wir dürfen den Verlust unseres Geldes nicht bedauern. Die Physiokraten halten die Berechnung der Bilanz für überflüssig." Grundsätze, II. Theil, §. 256, S. 582, Note f.

82. Grundsätze, III. Theil, Einleitung und vom Finanzsystem insbesondere c. I., §§ 27 f.

83. Montesquieu, L'esprit des lois, XIII. Buch, c. 12.

84. Man kann die Gedanken des Sonnenfels in mancher Beziehung, so auch beim Staatscreditwesen, allerdings mit denjenigen des A. Smith vergleichen. Sehr interessant z. B. sind die verwandten Anschauungen derselben über Verzinsungen von Staatsanlehen und Rückzahlung des Capitales, womit beide gegen die

ewigen Renten Front machen; vgl. Sonnenfels, Grundsätze, III. Theil, c. VII. §§ 194, 198, 200, 210, 212 u. 244; A. Smith, Inquiry into the nature and causes of Wealth of Nations, V. Buch, c. III. (Deutsche Ausgabe von Maz Stirner, 1847, Bd. 4, S. 281, 291, 293 u. 299.)

85. Sonnenfels behandelt die Banken hier nur theoretisch. Über die Gründung und Ordnung des „Banco del giro" von Leopold I. vom 15. Juni 1703, der Übertragung dieses Bankinstitutes auf das Stadtbanco von Wien 1705, über die Errichtung des Bankalitätsinstitutes durch Karl VI. im Jahre 1714, die Schaffung der sogenannten Bancozettel vom 15. Juni 1762 und die Errichtung der österreichischen Nationalbank und deren Privilegien von 1816, 1842 und 1863 vgl. Lustkandls Rede im Abgeordnetenhause des österreichischen Reichstages vom 9. März 1880, Stenographisches Protokoll, S. 1679 f.

86. Roscher, Geschichte der Nationalökonomik, S. 543.

87. Sonnenfels, „Was ist Wucher? und welches sind die besten Mittel, demselben ohne Strafgesetze Einhalt zu thun?" Wien. 1789, S. 40 f.: „Der Hauptort, die Geschäfte der gemeinschaftlichen Anstalt (der ständischen Leihbank) zu besorgen, wäre Wien, wohin also zu diesem Zwecke aus jeder Provinz ständische Bevollmächtigte abgeordnet werden müssten. Aber um die Nutzbarkeit der Bank zu verbreiten, und nach dem Zwecke, der auf Verleihung kleinerer Summen mit gerichtet ist, würde in jeder Provinz eine sogenannte Deputation bestehen, gleichsam ein Zweig der Hauptbank, um durch die Kosten, welche sonst die Entfernung den Anlehnern nothwendig verursachen würde, die Wohlthat der erleichterten Bedingnisse, besonders bei kleineren Anlehen, nicht zu erschöpfen." „Nach der Bestimmung, zu welcher die Bank errichtet würde, nämlich: um es der Landwirtschaft und Emsigkeit nicht an Unternehmungsfond gebrechen zu lassen, verleihe sie Capitalien an zweierlei Anlehner: an Eigenthümer von liegenden Gütern und an Manufacturanten wie auch an Handelsleute." Diese Bank hätte also eine Reichshypothekenbank und eine Reichscreditbank gegen Unterpfand werden sollen. Die Summe des zu leihenden Betrages sollte bei allen Eigenthümern eines liegenden Grundes ohne Rücksicht auf die Eigenschaft oder Grösse desselben, bis auf zwei Drittheile des Wertes, welcher aus den Landtafeln oder Grundbüchern dargethan wird, steigen können; Manufacturanten und Handelsleuten, aber nur diesen allein, sollte auch auf Unterpfand Vorschuss gegeben werden. Zu einem Unterpfande würden angenommen Gold und Silber (keine Juwelen), Waren und Wechselbriefe. Auf Gold und Silber sollte nicht unter 500 Gulden, auf Waren nicht darüber geliehen werden." Zinsen sollten von der Bank nicht höher als zu 4 Percent gefordert werden. Die Zinsen der Leihbank könnten ohne Ableitung zu einem andern Gebrauche beständig als ein gewidmeter Schuldentilgungsfond verwendet, hiedurch eine allmälige Befreiung des Staatscredites und eine theilweise Herabminderung der Abgaben erreicht werden. Der Staat könnte diese schon an sich sehr grosse freiwillige Anwendung des Credites noch ungemein vergrössern und sie sogar zum allgemeinen Saldierungsmittel zwischen seinen Provinzen erheben, wenn er ihre Versendung bei den Postämtern ohne merkliche Erhöhung des Porto versichert. Dadurch würden die Papiere nach und nach die Stelle des ganzen inländischen Wechsels vertreten und den Trieb der inneren Handlung vortheilhaft vermehren.

88. Roscher, Geschichte der Nationalökonomik in Deutschland, sagt S. 558: „Das preussische Landrecht ist doch viel doctrinärer und centralistischer ge*worden,* als Friedrich der Grosse, der nur eine Ergänzung der Provinzialrechte

beabsichtigte, gewollt hatte. Auch die breite, lehrbuchartige Form ist mehr Josefinisch als Friedericianisch. Wo der Inhalt die Volkswirtschaft berührt, da liessen sich zum grossen Theile Parallelstellen aus Sonnenfels anführen, nur dass natürlich dieser letzte rücksichtsloser und consequenter das von ihm als wünschenswert Betrachtete anstrebt, als eine Gesetzgebung thun konnte, welche auf das Bestehende mehr achten, nur das schon jetzt Mögliche fordern und der Staats- wie Fürstenmacht nichts vergeben musste." „Auch das österreichische Gesetzbuch steht nationalökonomisch viel näher an Sonnenfels als an Josef II., von dessen physiokratischen Neigungen es sehr weit entfernt ist. An die Sonnenfels'sche Bevölkerungspolitik erinnert es noch unmittelbar, wenn die Eltern des Bräutigams zu einer ihrem Vermögen angemessenen Ausstattung verpflichtet sein sollen (§ 1231). Auf einen charakteristischen Fortschritt weist § 303 hin, wo auch Dienstleistungen, Hand- und Kopfarbeiten zu den schätzbaren Sachen gezählt werden." — Diese Gedanken haben mit Sonnenfels' Bekämpfung des „Nachdruckes", den er geradezu einen Raub nannte, eine der ersten Vertheidigungen des wirtschaftlichen Wertes des „geistigen Eigenthums", einen innigen Zusammenhang. — Ebenso zeigen die Bestimmungen über die gesetzlichen Zinsen im Allgemeinen bürgerlichen Gesetzbuche Sonnenfels'schen Geist.

89. Zu den Schriften, welche Sonnenfels, als ständiger Secretär der Kupferstecher- und Zeichnungsakademie, welche 1801 in die Akademie der bildenden Künste umgestaltet worden ist, veröffentlicht hat, gehören insbesondere: Ein Vortrag: „Ermunterung zur Lectüre an junge Künstler", gelesen bei der ersten feierlichen Austheilung der Preise in der neuerrichteten k. k. Kupferstecherakademie im Jahre 1768, abgedruckt in den Gesammelten Schriften, Bd. 8, S. 272 f.; „Von der Urbanität der Künstler", gelesen bei der feierlichen Austheilung der Preise in der Zeichnungs- und Kupferstecherakademie am 5. März 1771, abgedruckt in den Gesammelten Schriften, Bd. 8. S. 297 f.; die sehr beachtenswerte Vorlesung: „Von dem Verdienste des Portraitmalers", gelesen in einer ausserordentlichen Versammlung der k. k. Zeichnungs- und Kupferstecherakademie am 23. September 1768, welche allerdings zwei Jahre nach dem Erscheinen des „Laokoon" von Lessing gehalten wurde; Gesammelte Schriften, Bd. 8, S. 349 f.; und „Eine Vorlesung bei der feierlichen Preisvertheilung an der k. k. Akademie der bildenden Künste im Jahre 1801, welche, Seiner königl. Hoheit dem Erzherzog Carl zugeeignet, sich über die Aufgaben der bildenden Künste überhaupt verbreitet und in einem Separatabdrucke veröffentlicht worden ist.

90. Dr. Const. v. Wurzbach, Biographisches Lexikon, Bd. 13, S. 298—301.

91. Josef Kudler, Erklärung des Strafgesetzes über schwere Polizeiübertretungen, 1824, Bd. 1, Widmung.

92. Wurzbach a. a. O., Bd. 13, S. 298.

93. Wurzbach a. a. O. — Der bedeutendste Lehrer der politischen Wissenschaften in Österreich neben den Lehrern an der Hochschule in Wien war zu jener Zeit W. G. Kopetz in Prag, welcher an dem geistigen Kampfe in Österreich tapferen Antheil nahm und in seiner lange vor Robert v. Mohl's Polizeiwissenschaft und würtembergischem Staatsrecht erschienenen: „Österreichisch-politische Gesetzkunde oder Systematik der politischen Verwaltung", Bd. 1, 1807, Bd. 2, 1819, für die Systematik des öffentlichen Verwaltungsrechtes ein grosses Verdienst sich erworben hat.

94. Immanuel Kant, insbesondere: I. „Grundlegung zur Metaphysik der Sitten", 1. Auflage, 1785; II. „Kritik der praktischen Vernunft". 1. Auflage,

Riga, 1788; III. „Idee zu einer allgemeinen Geschichte in weltbürgerlicher Absicht." 1784.

95. Immanuel Kant, Die Metaphysik der Sitten. I. Theil; Die Rechtslehre; II. Theil: Die Sittenlehre (1797). Rechtslehre: Metaphysische Anfangsgründe der Rechtslehre; der Rechtslehre I. Theil: Das Privatrecht; der Rechtslehre II. Theil: Das öffentliche Recht. Gesammtwerke herausgegeben von Hartenstein, Bd. 5, 1838. „Der Staat (civitas) ist die Vereinigung einer Menge von Menschen unter Rechtsgesetzen." (Öffentliches Recht § 45.) „Die rechtlichen, von dem Wesen der Staatsbürger unabtrennlichen Attribute derselben sind gesetzliche Freiheit, bürgerliche Gleichheit und bürgerliche Selbständigkeit (näher ausgeführt im Öffentlichen Rechte, § 46 f.). Die drei Gewalten im Staate sind erstlich einander beigeordnet (potestates coordinatae), zweitens auch einander untergeordnet (subordinatae), drittens durch Vereinigung beider jedem Unterthanen sein Recht ertheilend" (Öffentliches Recht, § 47). Der Wille des Gesetzgebers in Ansehung dessen, was das äussere Mein und Dein betrifft, ist untadelig (irreprehensibel), das Ausführungsvermögen des Oberbefehlshabers (summi rectoris) unwiderstehlich (irresistibel) und der Rechtsspruch des obersten Richters (supremi judicis) unabänderlich (inappellabel) (Öffentliches Recht, § 48). Der Regent des Staates (rex, princeps) ist diejenige (moralische oder physische) Person, welcher die ausübende Gewalt (potestas executoria) zukommt; der Agent des Staates, der die Magistrate einsetzt, als moralische Person betrachtet, heisst er das Directorium, die Regierung. Seine Befehle sind Verordnungen und Decrete. Der Gesetzgeber kann nicht zugleich der Regent sein. Endlich kann weder der Staatsherrscher (Gesetzgeber), noch der Regierer richten, sondern nur Richter einsetzen. „Also sind es drei verschiedene Gewalten (potestas legislatoria, executoria, judiciaria), wodurch der Staat (civitas) seine Autonomie hat, d. i. sich nach Freiheitsgesetzen bildet und erhält. In ihrer Vereinigung besteht das Heil des Staates (salus reipublicae suprema lex est), worunter man nicht das Wohl der Staatsbürger und ihre Glückseligkeit verstehen muss, denn die kann vielleicht (wie Rousseau behauptet) im Naturstande oder auch unter einer despotischen Regierung viel behaglicher und erwünschter ausfallen, sondern den Zustand der grössten Übereinstimmung der Verfassung mit Rechtsprincipien versteht, als nach welchem zu streben uns die Vernunft durch einen kategorischen Imperativ verbindlich macht." (Öffentliches Recht, § 49.)

96. Günther Heinrich von Berg, Handbuch des deutschen Polizeirechtes. Göttingen, I. Auflage, 1799 hat den Gegensatz der „polizeistaatlichen" Zeit und der mit J. Kant beginnenden „rechtsstaatlichen" Epoche in Bezug auf die Polizei und innere Verwaltung des Staates wohl am schärfsten zum Ausdrucke gebracht. Er schildert die frühere überschwängliche Auffassung von dem Nutzen einer „guten Polizei", die Schillers „Mädchen aus der Fremde" an Zauber und Gnadenspenden weit übertraf, und den Grund, warum diese allmächtige Fee doch beschränkt werden müsse, in folgender Weise (Berg, Teutsches Polizeirecht, I. Abschnitt, S. 1): „Die Policey gleicht einem wohlthätigen Genius, der sorgsam die Pfade ebnet, die seine Pflegebefohlenen betreten, die Luft reinigt, die sie einathmen, die Städte, Dörfer und Höfe, die sie bewohnen, und die Strassen, die sie wandern, sichert, der die Felder, die sie bauen, hütet, der ihre Wohnungen vor Feuer- und Wassersnoth und sie selbst vor Krankheit, Armuth, Unwissenheit, Aberglauben und Unsittlichkeit bewahrt; der, wenn er gleich nicht alle Unglücksfälle abwenden kann, doch ihre Folgen zu vermindern und zu erleichtern sucht und jedem Armen, Verunglückten und Hilfsbedürftigen eine Zuflucht in der Noth darbietet. Ihr aufmerk-

sames Auge ist überall, ihre hilfreiche Hand ist jederzeit bereit, und unsichtbar umschwebt uns stets ihre rastlose Sorgfalt. Aber in den Händen einer verkehrten Regierung wird sie leicht die fürchterlichste Plage und ein gefährliches Werkzeug der Unterdrückung. Hier wagt sie es, in das Heiligthum der Familien, der Freundschaft, der Gesellschaft einzudringen und begnügt sich für die Sicherheit derer zu wachen, die öffentlich die Sicherheit der Bürger verletzen. Sie beleidigt die geheiligten Rechte des Eigenthums unter nichtigem Vorwande und beschränkt die bürgerliche Freyheit ohne rechtmässigen Zweck." „So können wir in häufigen Beyspielen dort die nützlichste Thätigkeit, hier die verderblichste Wirksamkeit der Policey betrachten. Was sie unternimmt, thut und wirkt, liegt uns täglich vor Augen. Aber die Grenzen ihrer Wirksamkeit fest und sicher zu bezeichnen und, um dies zu können, ihre Natur zu ergründen und genau zu bestimmen, ist uns noch immer nicht gänzlich gelungen." „Das Wort Policey wird stets ein unbestimmtes, vieldeutiges Wort bleiben. ... Sind wir aber nicht einig über das, was sie ist, wie wollen wir einig werden über das, was sie darf?" (Folgen Besprechungen der Definitionen der Polizei von: Kant, Metaphysische Anfangsgründe der Rechtslehre, S. 185; Rössig, Lehrbuch der Polizeywissenschaft, S. 1; Lamprecht, Encyklopädie der ökonomisch-politischen und Cameralwissenschaften. Halle, 1785; Kreitmayer, Allgemeine Staatswissenschaften, § 17; Schnaubert, Staatsrecht der gesammten Reichslande, § 344. Vgl. ferner auch Herlins de Hohenthal, de Politia, S. 10; Heumann, Jus polit. germ., c. I. § 3; desselben: Geist der Gesetze der Teutschen, c. VIII, § 11; v. Roth, Staatsrecht deutscher Reichslande, II. Theil, S. 142; v. Justi, Grundsätze der Policeywissenschaft, § 2 u. 3; desselben: Grundsätze der Macht und Glückseligkeit der Staaten, Bd. 1, § 5; Jung, Staatspolicey wissenschaft; Schmalz, Natürliches Staatsrecht, § 174; Moser, Von der Landeshoheit in Policeysachen, S. 4; desselben: Tractat von der teutschen Kreisverfassung, S. 736; Erb, Versuch, die eigenthümlichen und rechtmässigen Grenzen der Policey zu bestimmen; Fischer, Cameral- und Policeyrechte, Bd. 1, § 4; Beckmann in den Anmerkungen zu Justis Grundsätzen der Policeywissenschaft, S. 6; Schlözer, Staatsgelehrtheit, Bd. 1, S. 25.

97. Vgl. Dr. Anton Menger, System des österreichischen Civilprocessrechtes, Bd. 1, S. 215; Dr. W. Lustkandl, Die Josefinischen Ideen, S. 123; Dr. Josef Kaserer, Handbuch der österreichischen Justizverwaltung, S. 43 u. 50; M. Friedrich von Maasburg, Geschichte der obersten Justizstelle in Wien, Prag, 1879.

98. Schon Martini hatte in seinen Werken trefflich vorgearbeitet. Franz von Zeiller liess sich nicht bloss praktisch bei den Codificationsarbeiten vom Rechtsgedanken leiten, sondern stellte auch ganz allgemein das Rechtsprincip als das höchste Princip des Staates auf. In seinem „Natürlichen Privatrecht" sagt er (§ 3) ganz in Kant'schem Geiste: „Die Einschränkung der Freiheit eines jeden Einzelnen auf die Bedingung, dass auch alle Anderen neben ihm gleichmässig als Personen bestehen können, ist nach dem Selbstbewusstsein des Menschen das Recht (in der absoluten Bedeutung)." In der Anmerkung fügt er bei: „Wollen sie also neben einander frei thätig sein, so muss nach Aussage der Vernunft, welche nach dem obersten Denkgesetze Widersprüche zu vereinigen nicht vermag, jeder aus ihnen seine Freiheit im äusseren Gebrauche wenigstens insoweit einschränken, dass auch die übrigen auf gleiche Weise wirksam sein können. Wer gesellig leben will, muss auch so handeln, dass Geselligkeit stattfinden könne." Hier haben wir ganz deutlich das Kant'sche Princip der Freiheit der Person, als subjectives Grundprincip des Rechtes, die Maxime der Coexistenz und das logische Grundgesetz des „Nichtwider-

spruches". Auch die anderen österreichischen Gelehrten stellen sich auf Zeillers Standpunkt. Dr. Franz Ritter von Egger, Zeillers Nachfolger, welcher nach fünfzehnjähriger Entfernung Zeillers vom Lehramte an der 3. Auflage von dessen „Natürlichem Privatrechte", 1819, bereits mitgewirkt hatte, zeigt recht deutlich den fortdauernden Einfluss der Rechtsidee auf Theorie und Praxis in Österreich. In seinem Werke: „Das natürliche öffentliche Recht", nach den Lehrsätzen des seligen Freiherrn C. A. von Martini vom Staatsrechte mit besonderer Rücksicht auf „Das natürliche Privatrecht" des k. k. Hofrathes Franz Edlen von Zeiller, Wien, 1840, stellt er den Begriff des Staates direct auf den Rechtszweck: § 9: „Eine (juridische) Vereinigung mehrerer unabhängiger Personen unter einer gemeinschaftlichen Oberherrschaft zur Sicherung ihrer Rechte heisst ein Staat." Er tritt anderen Theorien vom Staatszwecke entgegen, und in den §§ 13—27 führt er aus: „Die Sicherheit der Rechte ist 1. Der philosophische Staatszweck, 2. auch der eigenthümliche Staatszweck jedes Staates, 3. sie ist der nächste Staatszweck und 4. sie ist der Hauptzweck des Staates. Die übrigen angeblichen Zwecke sind nichts als durch die Rechtssicherheit bedingte Folgen eines Staates." Man wird die Kant'sche Rechtsidee kaum schärfer vertreten finden.

99. Von den gleichen Grundsätzen wie in der Theorie giengen die österreichischen Gelehrten bei den Codificationsarbeiten aus. Die von Pfaff und Hofmann in den Excursen über österreichisches allgemeines bürgerliches Recht veröffentlichten Materialien zum allgemeinen bürgerlichen Gesetzbuche, die Vorträge und Protokolle nehmen eine mindestens eben so hohe Stellung wie die bereits im Jahre 1804 publicierten „Motifs, Rapports, Opinions et Discours zum Code Napoleon" ein und sind ein entschiedener Beleg für den oben bezeichneten Charakter der Codificationsarbeiten. So erklärt Zeiller in der ersten Sitzung der ersten Lesung (21. December 1801) in dem zur Einleitung gehaltenen Vortrage (vgl. Pfaff und Hofmann, Excurse, I. Heft, S. 41): „Man könne die Eigenschaften guter Gesetze auf zwei Haupteigenschaften, auf die innere und auf die äussere Güte zurückführen. Die erstere beziehe sich auf den Inhalt, die letztere auf die Form. Die innere Güte der Civilgesetzgebung bestehe in der Gerechtigkeit. Diese sei der hohe Zweck, dem alles Übrige als Mittel untergeordnet werden muss." Ebenso in den Beiträgen, S. 40: „Die erste wesentliche Eigenschaft der bürgerlichen Gesetze ist, sie sollen gerecht sein." „Schärfer, sagen Pfaff und Hofmann, als in der von Zeiler durchgeführten Rangordnung der einzelnen an die Gesetzgebung zu stellenden Forderungen kann der Gegensatz gegen die von Sonnenfels vertretene Anschauung, die das dem Gemeinwohle Nützliche in die erste, die Gerechtigkeit in die letzte Linie stellte, nicht wohl zum Ausdrucke gebracht werden. Diese wichtige Forderung Zeillers aber löst sich bei ihrer Zergliederung wieder in mehrere auf." Die erste derselben sei, dass man durch die bürgerlichen Gesetze die Freiheit der Untergebenen ohne Noth nicht beschränke; die zweite, dass sie auch alle Bürger gleich verbinden und als dritte Forderung erklärt Zeiller, die bürgerlichen Gesetze müssen vollständig sein, woher wohl die principiellen Fassungen des österreichischen allgemeinen bürgerlichen Gesetzbuches kommen, wodurch dasselbe die Fassungen des allgemeinen preussischen Landrechtes weit übertrifft. Merkwürdigerweise bewegen sich den Forderungen Kants für die rechtliche Stellung der Bürger: Freiheit, Gleichheit, Selbständigkeit, die Forderungen Zeillers an die bürgerlichen Gesetze: Freiheit, Gleichheit, Vollständigkeit, ganz analog, nur dass im dritten Punkt der objective legislatorische Charakter gegenüber den subjectiven Rechten hervor*tritt.* Es ist hieraus genau ersichtlich, wie der Rechtsgedanke in allen Gebieten mit

Ausnahme des freien Verfassungsrechtes bereits Wurzel gefasst hatte. — Und dass das österreichische Gesetzeswerk gelungen sei, darüber ist nur eine Stimme. Schon Unger, dem man eine Nachsicht mit den Schwächen des allgemeinen bürgerlichen Gesetzbuches nicht nachsagen kann, dessen Lob daher um so schwerer wiegt, hat erklärt, dass das allgemeine bürgerliche Gesetzbuch unter den Gesetzeswerken seiner Zeit „einen ehrenvollen, wenn nicht gar den ersten Platz einnimmt", und dass es „schwer fallen dürfte, ein Gesetzbuch der neueren Zeit namhaft zu machen, welches zu dem gegenwärtigen Stande der Wissenschaft in einem so günstigen Verhältnisse stünde wie das bürgerliche Gesetzbuch zu der Jurisprudenz seiner Zeit" (Verlassenschaftsabhandlung, S. 1). Pfaff und Hofmann schliessen sich diesem Urtheile vollkommen an. Sie fügen noch hinzu, dass sie von aufrichtiger Achtung namentlich für Zeillers Gesetzgebungskunst und von der Überzeugung erfüllt sind, dass das österreichische allgemeine bürgerliche Gesetzbuch nicht nur in der Geschichte des Rechtes, sondern auch des deutschen Schriftthums immer mit Anerkennung genannt werden wird. „Man vergleiche nur den an der Grenze der letzten Jahrhunderte noch immer vorherrschenden Zopfstil in der deutschen Rechtswissenschaft mit der edlen, schlichten, rein-deutschen Ausdrucksweise unseres Gesetzbuches." Pfaff und Hofmann, Commentar zum österreichischen allgemeinen bürgerlichen Gesetzbuche, Bd. 1, I. Abtheilung, S. 7. Man könnte diesen Urtheilen noch andere beifügen. — Der Verlauf der Codificationsarbeiten wird von Dr. Ph. Harras Ritter von Harrasowsky in seiner „Geschichte der Codification des österreichischen Civilrechtes", Wien, 1869 übersichtlich dargestellt. Dabei werden auch Azzoni, Zenker, Horten und andere der Codificatoren gewürdigt.

100. Kudler a. a. O., Bd. 1, Einleitung VI, Grundzüge zur Geschichte des Strafrechtes über schwere Polizeiübertretungen in Österreich, S. 26 f.; vgl. Wahlberg, Die Revision der Theresiana und die Genesis des Josefinischen Strafgesetzbuches, Gesammelte kleinere Schriften, Bd. 3, S. 1—17, aus den Forschungen zur Geschichte der altösterreichischen Strafgesetzgebung in Grünhuts Zeitschrift für Privat- und Öffentliches Recht, Bd. 8; Domin-Petrushevecz, „Neuere österreichische Rechtsgeschichte", Wien, 1869.

101. Allerdings noch Franz II., denn Franz II. hat erst 1804 den österreichischen Kaisertitel angenommen und 1806 die deutsche Kaiserkrone niedergelegt, wobei in dem Abdankungsdocument merkwürdigerweise nach alter Gepflogenheit noch immer im Titel die Bezeichnung „semper Augustus", allezeit Mehrer des Reiches, stehen blieb. Der Titel für Österreich wurde 1804 als „erblicher Kaiser" festgestellt, im Unterschiede vom „erwählten" römisch-deutschen Kaiser; nach 1806 fiel der Gegensatz und damit auch die Nothwendigkeit der Bezeichnung „erblicher" weg; die Bezeichnung „erblich" hatte aber nicht etwa bloss auf die deutschen Erbländer im Unterschiede von Ungarn sich bezogen. Vgl. Lustkandl, Österr.-ungar. Staatsrecht, S. 311—323.

102. Beitrag zur Gesetzeskunde und Rechtswissenschaft in den österreichischen Erbstaaten, Wien, 1806, Bd. 1, S. 100.

103. Sebastian Jenull, Das österreichische Criminalrecht nach seinen Gründen und seinem Geiste dargestellt, vier Theile, Graz, 1808—1815, 3. Auflage, 1837; Egger Franz, Edl. v., Kurze Erklärung des österreichischen Gesetzbuches über Verbrechen und schwere Polizeiübertretungen, drei Abtheilungen in zwei Bänden. Wien und Triest, 1816, welches sich namentlich im I. Theil stark auf Jenulls treffliches Werk stützt; Nippel Franz Xav., Handbuch zur Erleichterung bei Anwendung des zweiten Theiles des Strafgesetzbuches zum Gebrauche

für Beamte. I. Theil: Von den verschiedenen Arten der schweren Polizeiübertretungen. Linz, 1824. II. Theil: Von dem Verfahren bei schweren Polizeiübertretungen, Linz, 1824. Da Nippel im Vorworte vom 2. Juli 1823 bemerkt, dass ausser den erläuternden Bemerkungen des Herrn Regierungsrathes Egger kein Werk vorhanden, so ist sein Werk noch vor demjenigen Kudlers geschrieben. Kudler Josef, Erklärung des Strafgesetzes über schwere Polizeiübertretungen mit Berücksichtigung der auf dasselbe sich beziehenden, später erlassenen Gesetze und Erläuterungen; Bd. 1, Von schweren Polizeiübertretungen und der Bestrafung derselben: Wien, 1824; Bd. 2: Von dem Verfahren bei schweren Polizeiübertretungen. Wien, 1824. Alle diese Werke sind von dem oben geschilderten Geiste, der zwar naturrechtlichen, aber eben das Recht zum Hauptgegenstande des Staatszweckes erhebenden Ansicht erfüllt. Besonders sind die Werke von Jenull und von Kudler sehr bedeutungsvoll. Wahlberg in seiner Abhandlung über „Die Reform der Rechtslehre an der Wiener Universität seit der Umwandlung zu einer Staatsanstalt" (Gesammelte kleinere Schriften, Bd. 2, S. 65 f.) hebt das Werk Jenulls weit über die Commentare hervor, welche später (bis zur Zeit Glasers) zum Strafgesetzbuche vom 1852 erschienen sind, und er hat wohl Recht. Ich verweise nur auf die treffliche Verwendung der deutschen, italienischen und französischen Strafrechtsliteratur im allgemeinen Theil und auf den Abschnitt über die Grundzüge zu einer philosophischen Geschichte des Strafrechtes mit besonderer Rücksicht auf Deutschland.

104. „Die Grundlehren der Volkswirtschaft", von Dr. Josef Kudler. Erster oder theoretischer Theil. Wien, 1846; zweiter oder praktischer Theil. Wien, 1846. Kudler hat dies Werk Sr. kais. Hoheit dem Erzherzog Wilhelm gewidmet, den er in den politischen Wissenschaften unterrichtet hatte.

105. Nicht einmal die Finanzwissenschaft ist bei A. Smith von den übrigen Zweigen der politischen Ökonomie geschieden. Gerade die Durchmengung von allgemeinen volkswirtschaftlichen Grundsätzen und von Massregeln der Volkswirtschaftspolitik war ein Hauptgrund der Angriffe für Friedrich List.

106. Dr. K. H. Rau, Lehrbuch der politischen Ökonomie. I. Grundsätze der Volkswirtschaftslehre. II. Grundsätze der Volkswirtschaftspolitik mit anhaltender Rücksicht auf bestehende Staatseinrichtungen, zwei Theile. III. Grundsätze der Finanzwissenschaft zwei Theile. Schon aus dieser Gliederung ist die schärfere Scheidung der Begriffe klar ersichtlich.

107. Rede Kudlers über die Schwurgerichte, in der 76. Sitzung des öster.-const. Reichstages in Kremsier am 23. Jänner 1849 gehalten, Stenographische Protokolle, Wien, k. k. Staatsdruckerei, Bd. 4, S. 528 f.

108. Rede Kudlers über die Aufhebung der Todesstrafe, in der 86. Sitzung des österr. const. Reichstages am 25. Jänner 1849 gehalten. Stenographische Protokolle, Bd. 4, S. 590 f.

109. Rede Kudlers über die Glaubensfreiheit und das Verhältnis zwischen Kirche und Staat, gehalten in der 89. Sitzung des österr. const. Reichstages. Stenographische Protokolle, Bd. 5, S. 126 f.

110. Vgl. Strafprocessordnung vom 23. Mai 1873, § 355.

111. Das Werk erschien unter dem Titel: „Versuch einer tabellarischen Darstellung des Organismus der österreichischen Staatsverwaltung. Mit erläuternden Anmerkungen von Dr. Josef Kudler. Wien, 1834." Nach einem Vorworte folgen als: Tab. I. Einleitungstabelle. Politische Landeseintheilung des österreichischen *Kaisertums.* Tab. II. Se. Majestät der Kaiser und Tabelle des Staats- und Conferenz-

ministeriums. Tab. III. Die k. k. allgemeine Hofkammer und alle ihr untergeordneten Behörden. Tab. IV. Der k. k. Hofkriegsrath mit allen militärischen Branchen und Verwaltungsbehörden. Tab. V. Das k. k. Rechnungsdirectorium. Tab. VI. K. k. vereinigte Hofkanzlei mit den untergeordneten Behörden. Tab. VII. K. k. Studien-Hofcommission mit allen unterstehenden Bildungsanstalten. Tab. VIII. K. k. Oberste Justizstelle mit allen unterstehenden Gerichten. Tab. IX. K. k. Polizei- und Censur-Hofstelle, mit den Unterbehörden. Tab. X. Königl. ungarische Statthalterei, mit den unterstehenden. ungarischen Verwaltungsbehörden. Tab. XI. Königl. ungar. Hofkammer, mit den unterstehenden Cameral- und montanistischen Behörden. Tab. XII. Königl. Septemviraltafel, nebst der Banaltafel für Croatien und den unterstehenden Gerichten. Tab. XIII. Königl. siebenbürgisches Gubernium mit der unterstehenden A. politischen und B. Justizverwaltung. Daran schliessen sich 141 Anmerkungen.

112. „Über Gesetze, welche die Zinsenforderung im Privatverkehre beschränken", vorgetragen in der kais. Akademie der Wissenschaften in Wien, vom Akademiker Dr. Josef Ritter von Kudler, gedruckt im Octoberhefte des Jahrganges 1851 der Sitzungsberichte der philos.-histor. Classe der kais. Akademie der Wissenschaften, auch als besonderer Abdruck verbreitet.

BENJAMIN FRANKLIN STEVENS
HENRY JOHN BROWN

B. F. Stevens & Brown,
4. Trafalgar Square,
London, W.C. 14 April 1902

Abbreviated Address for Telegrams Uboda London.

Dear Sir, I regretfully announce that Mr. Benjamin Franklin Stevens my respected senior partner passed away peacefully on the 5th of March after a long & painful illness which had confined him to his [illegible]

IN LOVING MEMORY OF

Benjamin Franklin Stevens

AMERICAN HISTORIAN

L.H.D., M.A. (of Vermont), F.S.A., F.R.Hist.S., Member of the American Antiquarian Society and Historical Societies of Vermont, Maryland, Connecticut and Minnesota

U.S. Government Despatch Agent in London, 1866-1902

BORN AT BARNET, VERMONT, 19 FEBRUARY, 1833; DIED AT THE SHEAVES, SURBITON HILL, 5 MARCH, 1902, AGED 69

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Dear Sir,

I regretfully announce that
Mr. Benjamin Franklin Stevens my
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peacefully on the 5th of March after a
long & painful illness which had
confined him to his house at Surbiton
for many months.

He made, some time before his
death, careful provision for my continuing
the business under the same title, on the
same lines & with the same staff as
heretofore. Having been associated with
Mr Stevens in the business for thirty
years I trust that the pleasant relations
the firm with you in the past may
be continued in the future.

Always at your service
Dear Sir
Yours faithfully
Henry J. Brown

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Whitefriars Journal.

No. 8. APRIL, 1902. PRIVATE CIRCULATION.

1833 - 1902

DEATH OF FRIAR B. F. STEVENS.

IT is with deep sorrow we record the death of Friar B. F. Stevens, which occurred at his residence, The Sheaves, Surbiton Hill, on March 5th. The funeral took place at Kensal Green Cemetery on March 10th. Amongst those present at the grave-side were Friars Henry J. Brown (deceased's partner), G. H. Perkins, Arthur Warren, R. Newton Crane, R. Noyes Fairbanks, and Arthur Spurgeon. A handsome wreath, bearing the inscription "A Tribute of Affection and Esteem from the Brotherhood of White Friars" was placed on the coffin. There were also present the American Ambassador and the whole of the Embassy staff, with many representatives of the American Society in London, the British Museum, and the Public Record Office.

A SKETCH OF HIS LIFE.

Benjamin Franklin Stevens was born at Barnet, Vermont, on February 19th, 1833. He was educated at St. Johnsbury (Vermont) Academy, and entered the University of Vermont in 1853, but did not finish the course. After leaving the University he filled various public offices in his native State and in those early years laid the foundation of his later interest in historical studies by arranging the Vermont Historical Manuscripts prior to 1800, and other similar work.

He came to London in 1860 to join his brother Henry Stevens (the noted bibliographer who died in 1886) in the bookselling business, but soon started on his own account the American Library and Literary Agency, which he continued to the time of his death. Through this Agency many of the literary rarities and treasures of the last forty years have found their way to the other side of the Atlantic.

In 1866 he was appointed United States Government Despatch Agent and continued in that position up to his death. His work in connection with this appointment brought him into contact with most of the leading American visitors to this country and his genial manner so endeared him to his countrymen, whether visitors or residents here, that he was frequently called "the father of the American Colony in London." In 1865 he married Charlotte Whittingham, daughter of the well-known printer, Mr. Charles Whittingham, of the Chiswick Press, and many of the celebrated headpieces and ornaments used by the Press were of her design.

Mr. Stevens himself was for some years a partner in the Chiswick Press.

About 1870 he began to take up the historical work with which his name will be mostly associated in the future, for, although he never claimed to be an Historian himself, his publications and researches have laid the foundations for other students and writers and have in many cases caused certain episodes in American History to be almost re-written.

Amongst his most important publications were the "Facsimiles of Manuscripts in European Archives relating to America, 1773–83," with description, editorial notes, transcription, etc., in 25 foolscap volumes, and a facsimile of the Paris MS. codex, "Columbus, His Own Book of Privileges, 1502," with English translation, etc., a foolscap volume of great typographical beauty.

Undoubtedly, however, his greatest contribution to historical research is his great "Manuscript Chronological and Alphabetical Catalogue Index of American papers in the Archives of England, France, Holland, and Spain from 1763 to 1784," which, when completed, will form nearly 200 foolscap folio volumes and make a splendid monument to his memory. It is pleasant to know that during the last few months of his life, while he suffered intense pain, he still was able to put the final touches necessary to complete his scheme. Indeed the last work he was able to do before his death was the revision of his "Introduction" to the volumes giving a history of their conception and growth.

He was Chairman of the American Society in London during the first year of its existence, and subsequently, until his death, its treasurer. He was also a Fellow of the Society of Antiquaries (an honour seldom conferred on an American), F.R. Hist. Society, Member of the American Antiquarian Society, and a corresponding member of various American Historical Societies. The University of Vermont conferred upon him recently the degree of L.H.D., and he was also M.A. of Dartmouth College, New Hampshire.

His death is a great loss to his many friends and not least to his brethren of the Whitefriars Club, for no one ever better combined the qualities of a gentleman, a scholar, and a devoted friend.

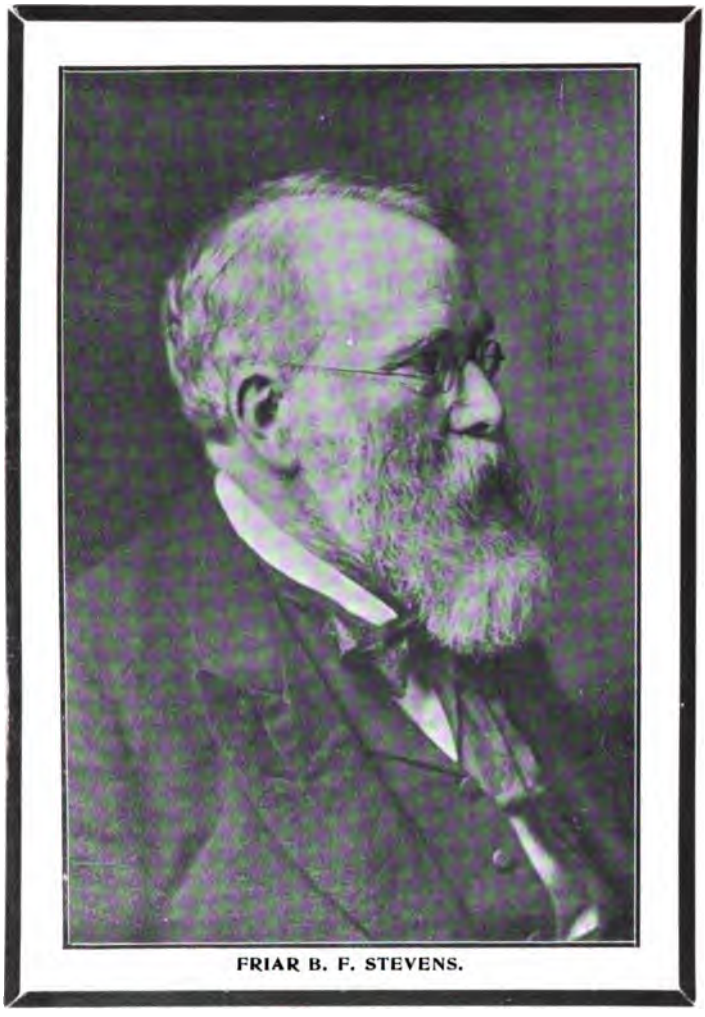
HENRY J. BROWN.

APPRECIATION BY FRIAR RICHARD WHITEING.

At a weekly meeting of the Brotherhood on Friday, March 7th, the Prior for the day, Friar F. J. Cross, alluded to the great loss the Club had sustained by the death of Friar B. F. Stevens, and called upon Friar Whiteing to propose a resolution of sympathy with the widow and relatives.

FRIAR WHITEING said :—Stevens was such a good friar, such a good Englishman, and, above all, such a good American.

As a friar he was always a mainstay of our meetings by his geniality and his genuine loveableness. He seemed to have in perfection an unobtrusive note that was still a positive note in itself. One felt good near him, to use the expressive



FRIAR B. F. STEVENS.

Americanism. He was so indulgent about others, so entirely free from all manner of evil speaking, that one always felt disposed to enjoyment the moment one saw him in the room. Then he had more marked qualitities of friarhood at need. I shall never forget how well he carried through a little task of

brotherly helpfulness which the Club entrusted to him. One of our members had fallen on evil days, and the Club, after its custom, undertook to see what it could do for those he had left behind. They wished to live in more modest circumstances, and they were ready to part with some books and artistic objects which they would not want in their new home. It was decided that these things should be sold, and Friar Stevens undertook to sell them. So he took us all with him to the house, and there, seated quietly in a chair in the drawing-room as amateur auctioneer, he made everything fetch about three times its value, or four times where he bought it in, ostensibly for the family, but really for himself. It was a beautiful thing, beautifully done. His exaggerations in his new part were so quiet in tone, and so deliciously extravagant in substance; a perfect little bit of the fine art of doing good.

Then, in another aspect, he always seemed to me to have been, in some degree, an American by mistake, and to have been born a typical John Bull. In the first place he looked the character, and, in the next, he was the character as it exists in the ideal of our national aspirations, a man of strength and of goodness in equal proportions, the one finely tempering the other—downright, his word his bond, and withal of a genial 'live-and-let-live' that made the world seem a sweeter place for his presence. And yet this very best of John Bulls I have ever known was also the very best of Americans. He served his country faithfully in a high official capacity. He held a post of great importance as dispatch agent; and public documents of the greatest importance constantly passed through his hands. In another department his business activities brought him into close relationship with the best minds of his country. He was a sort of living guide to the great treasures of our literature. He bought whole libraries at need with knowledge and with judgment. He was a keen competitor for choice editions, and sent many a precious folio to America which England could ill spare. Above all he made a liberal use of his fortune—still for the benefit of his own people. He saw that the one thing inaccessible to him as a buyer was the treasure of documents bearing on the history of the United States, that exists in our public archives. But though he could not buy, he could copy, and he organised a system of copying in facsimile which gave American scholars at home access to some of our most precious records, in their entirety, and in their exactness of verisimilitude.

For this, and for many other reasons on which it might not become me to dwell at a moment like this, I feel that the Club has sustained a very severe loss, and in its name I beg to offer the expression of its deep and most respectful condolence to the relatives of our dead comrade.

Friar W. Senior, in a few appropriate sentences, seconded the resolution, which was carried in solemn silence.

A TRIBUTE FROM THE AMERICAN AMBASSADOR.

In the death of Benjamin Franklin Stevens, the American Colony in London has suffered a serious loss. He had held the responsible office of United States Despatch Agent for thirty-six years, and for a still longer period—from 1860, when he joined his brother Henry, a noted bibliographer, in the book selling business, till the time of his death—he was the purchasing agent of many American libraries and collectors. His knowledge of books in both countries was very extensive and valuable, and he was often consulted by experts in bibliography. But his more unique distinction was as an antiquarian and historical searcher and investigator. For a great many years he had been engaged with a large corps of assistants, searchers, and copyists in examining, in the archives of Great Britain and other countries, documents throwing light on English and American history during the critical period beginning at a date anterior to the first signs of breach between the thirteen colonies and the Mother Country, and extending till after the close of the War of Separation. He had long ago become the highest living authority on the documentary history of those times. He had made a chronological and alphabetical catalogue index of American papers deposited in the public offices of England, France, Holland and Spain from 1763 to 1784, and had extended his work of that nature into many private collections. To illustrate his reputation as to all such knowledge—on the very day of his death, in answer to an application from the New York Historical Society for record evidence as to an important event in New York City while the British troops were there in 1776, I was referred by the War Office to him as "the most likely person to assist in the question raised," which had baffled inquiry elsewhere. He had become a Fellow of the Society of Antiquaries and of the Royal Historical Society, and a member of the Société d'Histoire Diplomatique, and of the principal Antiquarian and Historical Societies in the United States. As material for the future historian, and as a guide to all students of antiquities and genealogy, his work is of immense importance, and it is gratifying to know that its results are likely to be preserved and transmitted.

On social and personal grounds his loss is deeply lamented. He was the oldest American man of business of any prominence resident in London, and was one of the founders and first Chairman of the American Society, in whose useful work he took a

deep interest. His happy temperament and genial and sympathetic disposition made all with whom he came in contact his friends. Literary men were fond of his society, and he of theirs. Mr. Lowell in particular was much attached to him, often consulted him, and relied upon his valuable suggestions and information. He was a noble man of generous impulses, high character and pure nature, and devoted a long and busy life to useful pursuits.

I desire to place on record my high appreciation of his fine character and of the great importance of his life's work. His charming personal qualities, which made him dear to his associates, will long survive in their memory.

JOSEPH H. CHOATE.

A FEW IMPRESSIONS BY FRIAR ARTHUR WARREN.

Among White Friars none has filled a larger place in the hearts of men than Benjamin Franklin Stevens. Everybody who knew this man, and he was known by many men in many countries, knew him as the embodiment of kindliness. His place in life was many-sided. Some knew him as an officer of the American Government; others knew him as an historian, others as a book-seller, others as a bibliographer, or a publisher, others—years ago—as a partner in the Chiswick Press, others as an antiquary, and others as the purchasing agent in England of important American libraries, public and private, but everybody knew him as a sturdy New Englander, one of the most lovable men that ever gripped the hand and said "God speed." He was always doing something for somebody, and doing it wisely.

B. F. Stevens was one of the eight or nine American members of the Whitefriars Club, and the second of his countrymen to join our order. He became a Friar in 1890, but long before that his presence was familiar in our refectory at Anderton's. Of his sixty-nine years, forty-one were lived in England. He married an Englishwoman, Charlotte Whittingham, an artist, a daughter of the celebrated printer Charles Whittingham, whose work with the publisher William Pickering conferred a lasting honour on the making of printed books in England.

Historical research was his chief delight. But he had another delight which matched it, although it is not set down in official records, nor capable of cataloguing—the cultivation of friendly understanding between American and English folk. His energy as an historian was indefatigable. Appreciation of his work will increase with time as the results of it are utilised. For more than

thirty years he directed a staff of trained assistants in the compilation of a monumental index to Documents Relating to America in the archives of England, Holland, France and Spain. These documents, concerning the years from 1763 to 1784, are numbered by tens of thousands, and they had first to be discovered, rescued from neglect and dust. His work in this direction led him to publish facsimiles of some of the manuscripts, with editorial notes, descriptions and translations. He selected and published 2,107 of these facsimiles, in 200 sets, comprising 25 volumes. For most men this would have been the work of a lifetime. With our Friar it was an incident.

A few years ago he photographed, at the Foreign Office in Paris, the MSS. codex, "Christopher Columbus, His Own Book of Privileges," reproducing the original with transliteration, translation, and notes, in a large volume which is justly regarded as a triumph of scholarly editing, and of typography and process work. He published "The Campaign in Virginia, 1781," dealing with the Clinton Cornwallis controversy, and General Sir William Howe's Orderly Book, with precis of the correspondence between the British Government and Sir William Howe. He calendared for the Royal Commission on Historical Manuscripts, the American portion of the Earl of Dartmouth's papers; and the Headquarters papers of the British Commanders-in-Chief in America, Generals Sir William Howe, Sir Henry Clinton, and Sir Guy Carleton. These "headquarters papers" are preserved in the Royal Institution. A year ago—January, 1901—he published a map (10 ft. by 4 ft.) of New York and Environs, A.D. 1782. The original coloured drawing of this map he discovered at the War Office in London. It was made for the British military authorities of the time, and is a very interesting and important work, the best map of the place, they say, up to that time.

Mr. Stevens was a member of a dozen societies, American, English, and French. He was the first Chairman of the American Society in London. His name and word were honoured, his knowledge and advice sought by governments, and bibliographers, and students on both sides of the Atlantic. No man of our time had more friends. The traveller who went to any capital, or any seat of learning, in the Old World or in the New, with letters from Mr. Stevens had all doors opened for him. And yet this was a man of modest nature and simple living; not a courtier, a speech-maker, or a seeker of fame. He thought straight, as Lowell said, and he thought truth and lived it.

During the past two years he suffered much. In the past year he suffered greatly; there was hardly a moment without sharp physical pain. But his mind was as clear as ever, and he worked on.

It is difficult to write about B. F. Stevens. The loss is too new and great. One hears the cheery voice, and sees the genial face, and remembers a thousand deeds of friendship. And the

pen stops. Here was a man who loved his fellow men; and they loved him.

ARTHUR WARREN.

A PERSONAL NOTE BY FRIAR FAIRBANKS.

Next to his thoughtlessness of self certainly came his simplicity and straightforwardness of character. If a perplexing problem of vexed self-esteem or strained relations were brought to him to solve he simply cut the knot, or untied it so deftly that one wondered if it had ever been.

I hesitate to speak of the way he sought out occasions to lend a helping hand, or give a still more helpful word, of how he anticipated the wants of friendship and met them before they were even realised, because there are so many scores of others equally indebted to him who can phrase their gratitude much better. But his unfailing kindness, his endless resources on behalf of others, his tact and sound common sense were gifts so gracefully offered that they could not be refused, and I cannot forbear adding my own tribute.

He seemed to have the rare gift of reaching the hearts of all men equally, without distinction of country, rank, or position. Although he left his home in Vermont some forty years ago, it was most touching to me to find among the country people of his native village an affectionate remembrance which time did not erase. I doubt if any man were more successful in keeping a hold on all who had ever known him.

These Vermont people, too, were much in his thoughts in his last years. I recall, with keen pleasure, a long afternoon he spent reading to me the diary of his grandfather's experiences, as he rode on horseback into the then wilderness of Upper New England, and founded a home in the clearing he made in the forests. He often talked with me as to ways and means to supply the people of his native town with the opportunities for reading of which he had felt some lack in his boyhood, and ended by selecting and giving a large number of books to help found a library for them. In all his years of life here, he never allowed himself to lose the homely phrases of New England life, and I have before me the very cordial letter in which he said he was "real glad" to welcome a new-comer from his native State; and he never failed to ask me for news of his old home and the friends he had left.

Surely in this unassuming simplicity and loyalty lay much of the secret of his hold on the hearts of those who knew him.

ROBERT NOYES FAIRBANKS.

CLUB NOTES.

THE Committee have devoted the greater portion of this issue of our little JOURNAL to appreciations of our dear friend Friar B. F. Stevens. He was a member of the Committee until December last, when he asked to be relieved of the position, as he was convinced, so he wrote to his colleagues, that the rest of his days would be spent in a sick chamber. He suggested that his friend and partner, Friar Henry J. Brown, should take the place of the "old invalid" as he described himself, and at the annual meeting Friar Brown was unanimously elected in his place. Friar Stevens held a very warm place in the affections of the members of the Brotherhood, and his memory will long be green in our midst.

A LETTER has been received on behalf of Mrs. Stevens thanking the members of the Club for the resolution of sympathy passed at the weekly meeting on March 7th.

THE portrait of our late brother is reproduced by the courtesy of Mr. Robert Marston, Editor of the "Publishers' Circular."

OWING to illness, Mr. A. Birrell was unable to fulfil his engagement on February 7th to open a conversation on "The Commerce of Men *versus* the Commerce of Books," and his place was taken at short notice by Friar Richard Whiteing. Two guests, Mr. Maurice Hewlett and Mr. Benjamin Swift, greatly contributed to the interest of the evening. Mr. Birrell has accepted an invitation to dine with the Club on the occasion of the Shakespeare Commemoration on April 25th, when Friar Winston S. Churchill, M.P., will preside. The guests that evening will include Mr. Alfred Tennyson, grandson of the late Poet Laureate.

WE are much indebted to the American Ambassador for so kindly acceding to our request to contribute the short article which appears elsewhere on Friar B. F. Stevens.

Two House Dinners held on February 21st and March 21st, presided over respectively by Friar J. Bloundelle Burton and Friar Commander Robinson, were a great success. After the first dinner, members balloted for seats at the Club windows to view the Coronation Procession. It is proposed to erect a staging on Friday, June 27th, capable of accommodating thirty-seven persons, and luncheon will be provided in St. Dunstan's Room.

FRIARS who wish to have the refusal of any tickets which may not be taken up by those who were successful at the ballot are requested to send their names at once to the Hon. Secretary.

OF the Friars who are on the sick list, it is satisfactory to report that Friar J. Farlow Wilson is recovering from a severe

attack of bronchitis. He celebrates his semi-jubilee of membership this year. Friar A. J. Fuller, who has been at Nordrach-on-Mendip since last September, has returned to his home at East Twickenham for a little change. According to present arrangement he will go back to Nordrach after Easter. Friar Spurgeon was allowed to see him for a short time last week. He was pleased to hear all about the "dear old Club," and was much touched when he was told that constant inquiries were made about him at the meetings of the Brotherhood.

A PROPOSAL, made at a special Club meeting, to modify the rule limiting the town membership to one hundred, was rejected by an overwhelming majority. Since this meeting three vacancies have occurred, and these have been filled by the election of Shan F. Bullock, novelist; W. H. Helm, Literary Editor of the *Morning Post*; and Benjamin Swift, novelist.

A MOTION that guests should be invited to the House Dinners was withdrawn. An excellent suggestion was made during the discussion that the younger members of the Club should make a point of attending the House Dinners with a view to becoming better acquainted with the older Friars. The Committee hope this will be acted upon.

As Sir William Richmond was unable to attend the meeting on February 28th through illness, Mr. Holman Hunt entertained the Club with some interesting reminiscences.

"THE Americanisation of England" was the topic introduced by Mr. Sidney Low on February 14th, and on March 7th Mr. John Murray opened a conversation on "Author, Publisher, and Literary Agent."

THE last "At Home" for the Session will be held on Monday, April 14th, when Mrs. Max Pemberton has kindly promised to act as hostess. An invitation will be sent to every Friar for himself and lady.

ON April 4th Friar Charles Pearce, who has been a member of the Club for twenty-seven years, will open a "talk" on Penny Fiction—a subject on which he is an admitted authority. Health permitting the chair will be taken by his old comrade, Friar J. Farlow Wilson.

A DOZEN members of the Richmond Club are to be entertained by the same number of Friars at the weekly dinner on April 11th, when Friar John Foster Fraser will preside, and the Club guests will be Sir Clements R. Markham, President of the Royal

Geographical Society, and Mr. F. T. Bullen. "Travellers' Tales" will be the order of the evening.

FRIAR MAX PEMBERTON will lead off a symposium on "How I got into Print" on April 18th, and Friar L. F. Austin will take the chair.

THE arrangements for the Annual Ladies' Banquet at the Hotel Cecil, on Friday, May 2nd, are practically complete. The Club guests will be the Countess of Warwick, John Oliver Hobbes (Mrs. Craigie), Lucas Malet (Mrs. St. Leger Harrison), Madam Sarah Grand and Mrs. Florence Annie Steel. The chair will be taken by Friar Anthony Hope. Mrs. Craigie will respond to the toast "Sovran Woman" and Lady Warwick will propose "Mere Man." The dinner will be held in the Victoria Room, to be followed at ten o'clock by a Conversazione in the Grand Hall. An excellent musical programme has been arranged. Further particulars will be given in a circular.

THE Committee invited the American Ambassador and Mrs. Choate to the Annual Ladies' Banquet, but official engagements unfortunately prevent Mr. Choate's acceptance. The Hon. Secretary has received the following letter:

"1, Carlton House Terrace, S.W.,
"*20th March*, 1902.

"DEAR MR. SPURGEON,

"Mrs. Choate and I had hoped to be able to accept the kind invitation of the White Friars to dine with them on the 2nd of May, and to enjoy the many good things promised for that occasion, but I regret to say that other engagements of an official character have supervened for that very evening, which will make it quite impracticable for us to accept your very cordial invitation.—Yours very truly,

"JOSEPH H. CHOATE."

THE Committee of the Richmond Club, having arranged to give a Pastoral Play in the beautiful old riverside garden adjoining their Club House, on Saturday, June 7th, send a cordial invitation to Friars to become honorary visiting members for that day, with the privilege of introducing guests, ladies or gentlemen. Full particulars concerning this invitation, which we are sure will be greatly appreciated by the Friars, will be posted in due course.

OUR Annual Pilgrimage this year, fixed for Saturday, June 21st, will take the form of an Excursion on the Thames, with Marlow as the centre. Saloon carriages will be attached to the ordinary train leaving Paddington for Taplow at 10.10 a.m., or will be run "special" if necessary. Two electric launches have been chartered on which the party will embark at Maidenhead Bridge. A short stay will be made at Marlow, and thence we shall proceed to Henley, Wargrave, and possibly Sonning Lock. Luncheon and afternoon tea will be served on the launches by

Messrs. Kingston and Miller, the well-known caterers of Oxford-street. Dinner will be provided at the Red Lion Hotel, Henley. A special train will leave Henley at 9.15 p.m., arriving at Paddington shortly after 10 o'clock. Friar Clement Shorter has kindly promised to contribute the letterpress for an illustrated booklet on "The Literary Associations of Marlow." Friars are requested to make a note of the date—June 21st—in their diaries. Ladies cordially invited, as in previous years.

THOSE Friars who have joined the Club in the last year or two and who have not yet given a "sitting" to Friar Russell, of Baker-street, are requested to make an appointment as soon as possible. There is no charge for the "sitting." It will interest members to know that the portraits of some of the old Friars which show signs of fading are about to be reprinted in carbon, the negatives having been carefully preserved by the late Friar Valentine Blanchard. They are now in the possession of Friar Russell. The Whitefriars Club prides itself on the fact that it has the most complete collection of Club portraits in the country.

MEMBERS will receive the usual dinner cards for April with this issue.

IT is gratifying to report that every Town Member has paid his subscription for the current year. Those Country Members who have not yet remitted are reminded that the Treasurer's address is—39, Christchurch Avenue, Brondesbury, N.W.

FRIAR CHARLES PEARCE has kindly promised to prepare a "Who's Who" for the Club Portrait Gallery, the biographical notes being confined to the Friars who have passed away. It is felt that the younger generation of Friars will like to possess some particulars of the men who did so much for the Club in its early days, and whose portraits adorn the Club-room walls. All the portraits have been identified with the exception of one. Perhaps some of the older members will be able to help Friar Charles Pearce in identifying "The Unknown."

MEMBERS are reminded that a Bohemian luncheon is provided n the Club-room between 1 o'clock and 2.30 p.m. each day.

AN excellent portrait of Friar Thomas Hardy will be added shortly to the Club collection through the kindness of Friar Clive Holland. We possess a splendid autograph portrait of Friar Mark Twain; but we have not one of Friar George Meredith. *Verb. sap.*

BY kind permission of Lord Salisbury, the Committee hope to arrange for a Saturday afternoon jaunt to Hatfield some time during the summer. The duties of Prior will be undertaken by Friar Gilbert Parker, M.P.

Printed by the National Press Agency, Ltd., Whitefriars House, Carmelite Street, London, E.C.

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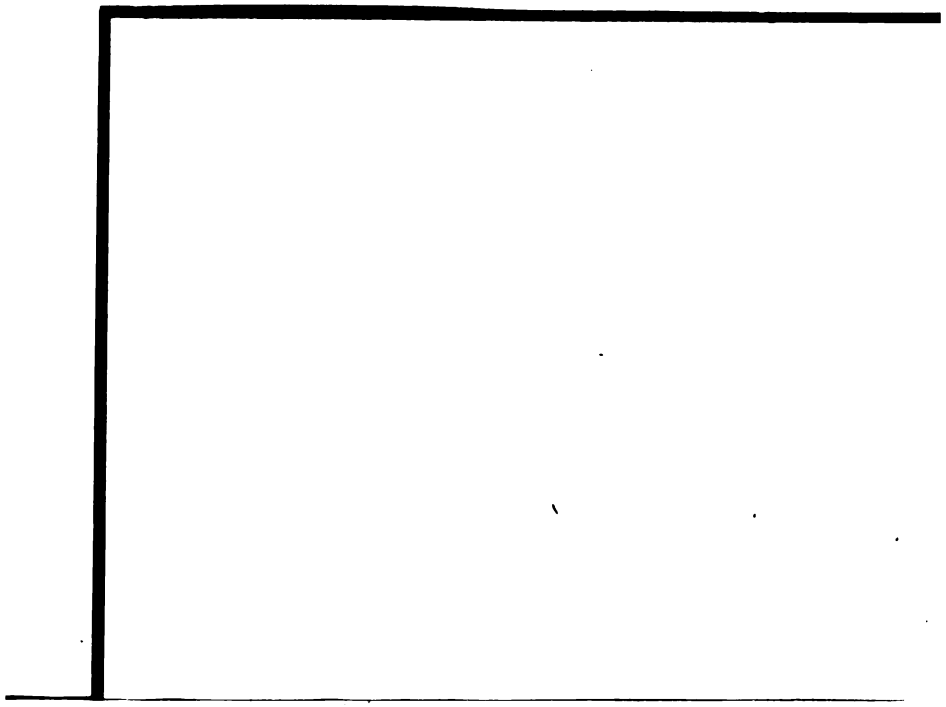
MEMOIR

OF

)SEPH STORY, LL.D.

In Memoriam



Write me as one who loves his fellow men.

Leigh Hunt.

MEMOIR

OF

JOSEPH STORY, LL.D.

By GEORGE S. HILLARD.

Reprinted from the Proceedings of the Massachusetts Historical Society,

For 1867–1868.

BOSTON:

PRESS OF JOHN WILSON AND SON.

1868.

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JOSEPH STORY, LL.D.

JOSEPH STORY was born in Marblehead, on the eighteenth day of September, 1779. He was the eldest child of a second marriage. His father, Dr. Elisha Story, had served as a surgeon in the army of the Revolution, and afterwards engaged in the practice of medicine in Marblehead, with distinguished success, till his death in 1805. His second wife, the mother of Judge Story, was Mehitable Pedrick, the daughter of an opulent merchant of Marblehead. She was married at the age of nineteen, and lived to an advanced age, surviving by a few years her eminent son. She was a woman of sense and energy, with an active mind and a cheerful spirit. Left, at the death of her husband, with a numerous family and a very moderate income, she showed an admirable tact and method in the conduct of her household, and the education of her children.

Young Story was prepared for college in his native town, and entered the Freshman Class in Harvard College, in January, 1795, about half a year in advance. His college life was in all respects honorable to him. His studies embraced not merely the prescribed course of the college, but ranged over a wide field of English literature. Among his class-

mates were Dr. Tuckerman and Dr. Channing. With the latter he contended for the highest honors of his class, but always acquiesced in the decision which gave the first place to his friend. He left college, not only unstained by vice, but with a singular purity of life and conversation.

The profession of the law had been his early and only choice, and he entered upon the study of it immediately after leaving college, first at Marblehead, in the office of Chief-Justice Sewall, and afterwards at Salem, in that of Judge Putnam. His love of literature, and especially poetry, and his enthusiastic temperament, made the study of the law at first distasteful to him; and he has left it on record that he more than once wept over the crabbed pages of "Coke upon Littleton," from inability to comprehend the meaning of the rugged commentator. But these difficulties soon vanished before his resolute industry, and in his three years of preparation he laid a strong and sure foundation of knowledge, on which to build in after years. The interest with which he always pursued his researches into the most abstruse and least attractive departments of the law would seem to justify the remark which has often been made, that the best lawyers are those who at first have a natural distaste to the study.

While a student of law, he delivered, at the request of the people of Marblehead, a eulogy on Washington, which was printed, and received with favor, though written in a style which the author's mature taste condemned as bombastic and extravagant.

He was admitted to the bar in 1801, and immediately began the practice of the law in Salem. His industry, the fidelity with which he served his clients, and his frank and engaging manners soon secured him a fair and steadily increasing amount of business, though he labored under the disadvantage of having espoused the unpopular side in politics. He was a Democrat; while the wealth, cultivation, and social influence of Salem, and indeed of all Massachusetts,

were with the Federal party. Party politics then ran very high, and the recent election of Jefferson had added bitterness to the strife; and the unpopular opinions of the young lawyer exposed him to some social mortifications and neglects to which he did not pretend to be insensible. But, though sensitive and sympathetic, he was not weak or morbid; and a singularly buoyant and cheerful spirit enabled him to bear lightly what might have crushed a melancholy temperament. His early politics were explained and justified by himself in later life, when he said, "I like as much to see a young man democratic, as an old man conservative. When we are old, we are cautious and slow of change, if we have benefited by experience: when we are young, we hope too much, if we are generous and pure."

During the year 1803, the post of naval officer of the port of Salem was offered to him, but declined on the ground that its duties would interfere with his professional prospects. In 1804, he delivered a Fourth-of-July oration before the citizens of Salem, written in the declamatory style which the popular taste then approved. In the same year, he published a volume of poems, containing an improved edition of "The Power of Solitude," which had originally appeared in 1802, and several fugitive pieces. "The Power of Solitude" is a didactic poem, in two parts, in heroic verse, written at a time when Zimmerman was read and admired. His son, Mr. William W. Story, who has won such honors in art and literature, says of this production, with commendable fairness, "The defects of his poem are exaggeration of feeling, confusion of imagery, and a want of simplicity of expression. The style is stilted and artificial. But, though dull as a poem, it shows facility and talent for versification, breathes a warm aspiration for virtue and truth, and is creditable to his scholarship."

During the same year, he prepared for the press and published a "Selection of Pleadings in Civil Actions," a useful

and accurate manual, and for a long time, during the reign of special pleading, almost the only book of forms used in this country. On the ninth day of December, Mr. Story was married to Miss Mary Lynde Oliver, a young lady to whom he had been long and tenderly attached; but his domestic happiness was destined to be of brief duration, for his wife's health began to decline soon after their marriage, and she died on the 22d of June, 1805, to the inexpressible grief of her husband. Her person and manners were pleasing, her mind was cultivated, and her disposition amiable and gentle. Her image was always recalled by her husband with affectionate tenderness. Two of the smaller pieces in his printed volume of poems were by her.

In 1805, he was chosen a member of the Legislature of Massachusetts, to represent the town of Salem, and was annually re-elected till his appointment to the bench. He soon came to be recognized as the leader of his party in the House, and was often obliged to contest, almost single-handed, against the powerful array of ability and influence which supported the Federal cause. In these contests he bore himself with a courage and eloquence which extorted hearty praise from the more generous of his opponents. He was an ardent, but not a bitter or an unscrupulous, partisan.

On one occasion he showed a manly and honorable independence of party ties. In 1806, a vacancy occurred in the office of Chief Justice of the Supreme Court of Massachusetts, and it was felt highly desirable to secure for the place the unrivalled legal abilities of Mr. Theophilus Parsons, then in large practice in Boston. It was understood that he would accept the office, if the salary were made honorable and permanent, it being then neither the one nor the other. Mr. Parsons was obnoxious to the Democrats, who at that time were in power in Massachusetts, because he was an uncompromising Federalist, whose great powers had been often exerted on behalf of his party. But Mr. Story put aside all

political prepossessions, and carried successfully through the House, in spite of the opposition of his own party, a bill which increased the salaries of the judges and made them permanent.

Nor was this all. Mr. Parsons accepted the office, but, after holding it three years, he sent for Mr. Story, and frankly told him that his salary was insufficient for the support of his family, and that he must resign his office unless it were increased. The Democratic party then had a majority in both branches of the legislature. A bill further enlarging the salaries of the judges, drawn by Mr. Story, was reported, and, through his personal influence, carried through both branches of the legislature. He was for a long time denounced by some of the journals of his own party for the part he took in these measures.

In January, 1806, he drew up an able memorial from the inhabitants of Salem to the President and Congress, on the infringement of the neutral trade of this country by Great Britain.

In the winter session of 1808, he made an elaborate report in favor of the creation of a court of chancery for the State of Massachusetts, and accompanied it by a corresponding bill; but the proposed measure was not successful.

In the month of August, 1808, he was married to Miss Sarah Waldo Wetmore, a lady with whom he lived in great happiness until his death.

In the autumn of 1808, he was elected a member of Congress, to supply the vacancy caused by the death of the Hon. Jacob Crowninshield. He served only for the remainder of the term for which he was chosen, and declined a re-election; his hopes and aspirations being professional, and not political. While in Congress, he manifested his usual independence by giving his support to propositions to increase the navy and to repeal the embargo; in both cases acting against the party to which he belonged. Mr. Jefferson was displeased at his

course, and in one of his letters calls him a "pseudo-republican."

In 1809, engrossed as he was with business and politics, he found time to edit a new edition of "Chitty on Bills of Exchange and Promissory Notes"; appending to it a large body of valuable annotations. In 1810, he prepared an edition of "Abbott on Shipping," and, in 1811, an edition of "Lawes on Assumpsit"; to both works adding copious notes.

In January, 1811, he was chosen Speaker of the House of Representatives of Massachusetts, in the place of the Hon. Perez Morton, appointed Attorney-General of the State; and, on the organization of the new House, in the succeeding May, he was re-elected to the same station. During the short time that he held this office, he presided over the deliberations of a crowded and somewhat stormy body, to the satisfaction of all the members.

In 1810, the seat of Associate Justice of the Supreme Court of the United States became vacant, by the death of Mr. Justice Cushing. The place was first offered by President Madison to the Hon. Levi Lincoln, who declined it; and then to the Hon. John Quincy Adams, at that time in Russia, by whom it was also declined. In the month of November, 1811, the appointment was, very much to his surprise, offered to Mr. Story, and, after some reflection, accepted. The annual salary of a judge of the supreme court was then only thirty-five hundred dollars, and as his professional income at that time was nearly double in amount, he made no slight pecuniary sacrifice in leaving the bar; but he was induced to accept the office mainly because of the opportunity it afforded him to pursue those juridical studies which were most congenial to his tastes.

Mr. Story, when he went upon the bench, was only thirty-two years old, a very early, and, with the exception of Mr. Justice Buller, an unprecedented, age for a lawyer to be

advanced to a seat upon the highest judicial tribunal of his country. When we call to mind his youth, and remember how earnest and conspicuous he had been on the unpopular side in politics, it will not be a matter of surprise to learn that the news of his appointment fell with something like consternation upon the elder, the more apprehensive, and the more conservative portion of the people of New England. His merits as a lawyer could be scanned only by his professional brethren: his sweet and generous nature could be appreciated only by his friends. The public knew him as an enthusiastic partisan; and it is not too much to say that with many there was an apprehension that, in his hands, rights and property would hardly be safe. It is hardly necessary to add, that the existence of such fears was a striking proof of the truth of Mr. Jefferson's saying. "How much we suffer from misfortunes that never happen!" From the moment he assumed his judicial office, he shook the dust of politics from his feet; and he bore himself with such absolute impartiality, that it is literally true that there was no act of his judicial life from which it could have been known to which of the two great parties which divided the country he had previously belonged.

From 1811 till 1829, when he removed to Cambridge, the life of Judge Story flowed on in a uniform and uneventful current. About three months of every year were spent with the Supreme Court in Washington, and several weeks were devoted to the judicial duties of his circuit, embracing Maine, New Hampshire, Massachusetts, and Rhode Island. His life was useful, laborious, and happy. His duties were eminently congenial to his taste and the nature of his mind. His legal studies were pursued with an appetite that grew with what it fed upon. His hopes and aspirations were all confined to the sphere of the bench, and he never cast a lingering look back upon the political field he had left. His warm domestic and social tastes found satisfaction in a happy home, and in a

large circle of relatives and friends, by whom he was regarded with equal pride and affection. A busier or a happier man it would not have been easy to find. His lot was not exempt from those trials by which the soul of man is tried and ripened. Of seven children who were born to him, four were taken away by death during these years; and his letters show how acutely he felt these losses, and with what Christian resignation he bore them.

During this period, Judge Story's judicial labors, great as they were, did not absorb all his time or energies. His miscellaneous occupations and occasional productions would alone have been enough to save him from the reproach of being an idle man. On the 23d of August, 1813, he delivered a eulogy at Salem, on the occasion of the re-interment of the bodies of Captain James Lawrence and Lieutenant Augustus C. Ludlow, who were killed on the 18th of June of the same year, in the engagement of the Chesapeake with the Shannon. Their remains were at first buried at Halifax, whence they were removed to Salem. Though hurriedly prepared, and under the depression of illness, it was well received by the public. The elaborate memorial of the merchants of Salem against the tariff, in 1820, was drawn up by him. In 1821, he delivered an address before the members of the Suffolk bar, which was published in the "American Jurist" in 1829, and republished in England, in Clark's "Cabinet Library of Scarce and Celebrated Tracts."

In 1826, he pronounced the annual discourse before the Phi-Beta-Kappa Society of Harvard College; a performance marked by a flowing ease of style, and showing a wide range of literary cultivation. In 1828, he delivered the centennial address in commemoration of the two-hundredth anniversary of the first settlement of the town of Salem,—a beautiful discourse, perhaps the finest and most finished of all his occasional productions, abounding with passages of a rich and animated eloquence; among which may be especially enumer-

ated the closing paragraphs, and the pathetic reflections on the fate of the Indians. He also wrote biographical sketches of Samuel Dexter, Mr. Justice Trimble, Mr. Justice Washington, Chief-Justice Parker, William Pinkney, and Thomas Addis Emmett. He contributed to the "North-American Review" articles on Hoffman's "Course of Legal Study," on Jacobsen's "Laws of the Sea," on "Johnson's Reports," on "Phillips on Insurance," and on Dane's "Abridgment of American Law." These were not merely literary notices of the several works reviewed, but elaborate essays on the subjects discussed in them; marked by the same thorough research and exhaustive learning which distinguish the writer's judicial opinions.

In the "Encyclopædia Americana," the titles, Congress, Contract, Courts of the United States, Criminal Law, Capital Punishment, Domicile, Equity, Jury, Lien, Law Legislation and Codes, Natural Law, National Law, Prize, and Usury, were furnished by him. The elaborate notes in "Wheaton's Reports," on the Principles and Practice in Prize Courts, on Patent Laws, on Charitable Bequests, on Piracies, and on the Admiralty Jurisdiction, as well as on several others of less importance, occupying no less than one hundred and eighty-four closely printed pages, were written by Judge Story. The following entry in one of his memorandum books is worthy of being here copied, as illustrating the beautiful disinterestedness of his nature, and his readiness to serve his friends:—

"June 12, 1819. It is not my desire ever to be known as the author of any of the notes in Mr. Wheaton's 'Reports.' Lest, however, the fact should transpire, and it should be supposed he is under obligations to me for notes which are his own, I think it best to put down those notes which I have written. I made it an express condition, that the notes furnished by me should pass as his own; and I know full well that there is nothing in any of them which he could not have prepared with a very little exertion of his own diligence and learning."

Then follows an enumeration of the notes.

To be willing to labor without reward is no uncommon trait; but there are few who thus rise superior to the love of fame, and silently allow a friend to wear the honors of patient and conscientious research.

To this period of his life also belongs his impressive charge to the grand jury at Portland, in 1821, on the horrors of the slave trade.

In 1820, after the separation of Maine from Massachusetts, a convention was called to revise the Constitution of the latter State. To this convention — a body remarkable for wisdom, ability, and comprehensive patriotism — Judge Story was sent as a delegate from the town of Salem. He took a deep interest in its proceedings, and an important part in its debates. He maintained the all-important principle of the independence of the judiciary, in a powerful argument, which was never reported. The published debates of the convention contain a beautiful specimen of his deliberative eloquence, in a speech on the basis of the senatorial representation; in which he considered the influence which property has, and should have, upon government.

In 1818, Judge Story was elected a member of the Board of Overseers of Harvard College. In January, 1825, he delivered before this body an argument against a claim set up in a memorial presented by some of the professors and tutors of the college, that none but resident instructors were eligible as "Fellows" of the corporation. This argument, which was confined wholly to the legal merits of the case, is full of curious and recondite learning upon a novel question, which had hardly ever before been investigated in this country. In the year 1825, he was elected a member of the Corporation, and continued to hold this office until the time of his death, faithfully and diligently discharging the duties of this trust.

In 1829, an important change took place in Judge Story's life and labors. In the early part of that year, Mr. Nathan Dane, of Beverly, — so honorably known, alike as a legislator

and a jurist,— stated to him, in a personal interview, that he proposed to bestow ten thousand dollars upon Harvard College, to found a professorship of law, but upon the express condition that he should be the first incumbent of the chair. Judge Story, who had already declined to accept the Royall Professorship of Law at Cambridge, was at first unwilling to accede to Mr. Dane's proposition; but after much reflection, finally consented, mainly on the ground that his refusal would deprive the college of a useful and honorable foundation. He was accordingly elected, by the Corporation, Dane Professor, on the eleventh day of June, and Mr. John Hooker Ashmun, of Northampton, — a young man of extraordinary promise in the law, cut off before his prime, — was appointed Royall Professor. Their inauguration took place Aug. 29, 1829, on which occasion Judge Story pronounced a beautiful and appropriate discourse. He left Salem, not without many painful regrets, in September, and immediately entered upon the duties of his office. From 1817 to 1829, the average annual number of students in the Law School had been about eight; but the name and reputation of Judge Story exerted an attractive force unknown before; and before the close of the first year of his professorship, the number of pupils had increased to thirty.

Busily occupied as he now was with his old and new duties, he found time to prepare and deliver, in November, 1829, a discourse before the Boston Mechanics' Institute, at the opening of their annual course of lectures, on the Value of the Mechanic Arts and the Influence of Science. These themes were treated in a manner adapted to a popular audience, and enlivened with copious illustrations.

In December, 1830, a plan having been arranged that the professors belonging to the college should deliver a series of lectures before an audience composed of their families and friends, Judge Story opened the course with a lecture, in which he maintained the advantages of a wide and generous

cultivation, rather than an exclusive devotion to any single study. At the close of the series, he gave a lecture on the relation of husband and wife.

The happy current of Judge Story's life was now to be broken by perhaps the sharpest sorrow of his life. On the 10th of May, 1831, his youngest daughter, Louisa, — a child singularly lovely in person and attractive in character, — died of scarlet fever, after a very short illness. The blow was the more desolating from its unexpectedness, as his daughter had always enjoyed the most blooming and radiant health. The writer of this sketch well remembers the overwhelming grief of Judge Story under this bereavement, and the wide and deep sympathy which it called forth, as well as the resolute energy with which he sought relief from torturing recollections in the earnest discharge of his official and academic duties. But, though he rallied from the shock, he never entirely recovered from it. After this loss, the world never was to him quite what it was before, and a shade of gentle melancholy hung over his brightest hours and purest satisfactions. The feelings awakened by this irreparable loss found fitting expression in the beautiful discourse delivered by him Sept. 24, 1831, on the consecration of the Cemetery at Mount Auburn, which is informed with the tenderness and sensibility of a stricken mourner, as well as the faith and hope of a submissive Christian. More than once, during the delivery of this discourse, the tide of recollection was so strong as to choke for a moment the speaker's utterance; and the sympathetic emotion of the vast audience around him was shown in the profound silence of all, and the suffused eyes of not a few. The loss of this beloved daughter also called from him the most genuine and beautiful of his poems.

In the autumn of 1831, the chief-justiceship of the Supreme Court of Massachusetts became vacant by the death of Chief-Justice Parker, and Judge Story was much pressed to accept the vacant office, but declined to do so.

In the beginning of the year 1832, Judge Story published his "Commentaries on the Law of Bailments," the first of the series of text-books prepared by him while incumbent of the professor's chair, and as aids in the teaching of the elementary principles of law. No work on the subject had previously appeared in English but the well-known essay of Sir William Jones, which could claim no other rank than that of a beautiful and scholarly outline, without the fulness or the accuracy requisite for the practitioner or the student; and the new treatise, received with great favor alike in America and England, was introduced into the Law School as a text-book, to the great satisfaction and advantage of the pupils. This work was very properly dedicated to Mr. Dane.

In the early part of 1833, Judge Story published his "Commentaries on the Constitution," in three volumes, which were received with great and general favor. A just and comprehensive tribute was paid to this work by the eminent man to whom it was so appropriately dedicated, — John Marshall, — in a letter of acknowledgment to the author: "I have finished reading your great work, and wish it could be read by every statesman, and every would-be statesman, in the United States. It is a comprehensive and an accurate commentary on our Constitution, formed in the spirit of the original text."

On the fifth day of April, 1833, he pronounced a eulogy, in the college chapel, upon his associate in the Law School, Professor Ashmun. Though prepared in the short interval between the death and the funeral of his young friend, it was a discriminating and affectionate sketch of his character and powers.

In the early part of 1834, the "Commentaries on the Conflict of Laws" were published. It was the first systematic treatise on the subject in the English language; and its admirable method, its copious learning, and the liberal spirit which pervaded it were warmly recognized by professional readers, both in England and America. It was reprinted in England,

and soon translated into German and French; and it was received by the jurists and juridical writers of the Continent with a welcome which was the best proof of the substantial merit of the work.

In August, 1834, Judge Story published in the "New-England Magazine" an essay entitled "Statesmen: their Rareness and Importance," in the course of which he gives a sketch of Mr. Webster's political career. In the same month of August, 1834, he delivered a lecture before the American Institute of Instruction, on "The Science of Government as a Branch of Popular Education," in which he maintained that it was practicable and proper to teach the science of government as a branch of popular education, and thereby insure such comprehension of its general principles as to secure intelligent legislation. With a view of illustrating and enforcing his own doctrines, he subsequently prepared a brief manual, called "The Constitutional Class-Book," which was introduced as a text-book into many schools.

On the sixth day of July, 1835, Chief-Justice Marshall died, an "old man and full of years," the object of such reverence and gratitude as had been accorded to no man since the death of Washington. This was a severe loss to Judge Story, who not only felt the highest admiration for the Chief Justice as a great lawyer and magistrate, but loved him as a personal friend with whom he had long lived on the most affectionate and intimate terms. Invited by the members of the Suffolk bar to deliver a eulogy upon the Chief Justice, he could not decline the request, though it came at a time when he was pressed by many and arduous labors. His commemorative discourse was pronounced in Boston, on the fifteenth day of October, 1835, before a large and sympathetic audience, and was afterwards published. It is a glowing and yet discriminating sketch of the life and character of Marshall, colored with the rich hues of personal feeling; but in its estimate of the intellectual qualities of this illustrious magistrate,

and of the value of his services, it was no more than an anticipation of the calm, unbiassed judgment of posterity.

During the year 1835, Judge Story prepared for the "Kritische Zeitschrift"—a periodical published at Heidelberg, under the editorial charge of Professor Mittermaier—an elaborate article on the Constitutional and Public Law of the United States. And, subsequently, he furnished for the "Revue Étrangère," at Paris, an article on the Organization and Jurisdiction of National Courts in the United States.

In the latter part of 1835, Judge Story revised and published a selection from his miscellaneous writings, which was dedicated to Mr. Josiah Quincy, then President of Harvard College.

In the early part of 1836, the first volume of his "Commentaries on Equity Jurisprudence" was published, which was followed by the second in the summer of the same year. This is a work of profound and exact learning; and, in practical value to the profession, has not been surpassed by any of Judge Story's legal treatises. He found a peculiar pleasure alike in the study and the administration of equity law. Its broad and comprehensive principles, which were in unison with his own liberal and enlightened views of jurisprudence, were expounded by him with a fulness of illustration and a depth of research which showed that his mind was working in a congenial sphere. His "Commentaries" took a place in the literature of the profession which no previous work on the same subject had occupied, and from which no subsequent rival has removed it. It was dedicated to Mr. William Prescott, a man eminently worthy of the honor, alike on professional and personal grounds.

During this busy year (1836), Judge Story prepared a memorial in behalf of his brother-in-law, Mr. Fettyplace, and other claimants, praying indemnification for the seizure of the schooner "Reward" by France, under the treaty of Feb. 2, 1832, between France and the United States, containing an

elaborate argument on several important questions of prize law.

In this same year (1836), Judge Story was appointed by Governor Everett chairman of a board of commissioners, under a resolution of the Legislature of Massachusetts, "to take into consideration the practicability and expediency of reducing to a written and systematic code the common law of Massachusetts, or any part thereof, and to report thereon to the next Legislature, subjoining to their report a plan or plans of the best method in which such reduction can be accomplished." In his capacity of chairman, Judge Story drew up an elaborate report, recommending the reduction of certain portions of the common law to a written and systematic code, in which the principles established by the courts should be enunciated with precision.

In the beginning of the year 1838, Judge Story published a treatise on "Equity Pleadings," a work supplementary to the "Commentaries on Equity Jurisprudence," and marked by similar merits of thorough research and luminous method. It was dedicated to that great lawyer, Jeremiah Mason.

In the spring of 1839, his "Commentaries on the Law of Agency" were published, which met with the same success, at home and abroad, as his previous works. The same may be said of the "Commentaries on Partnership," which appeared in the early part of 1841. In the interval between the publications of these treatises, new editions were prepared of the works on "Bailments," on "Equity Pleadings," and on the "Conflict of Laws," involving much labor, and comprising extensive additions.

On the 23d of August, 1842, Judge Story delivered the first oration before the society of the Alumni of Harvard College, an association in which he felt much interest, and of which he was vice-president. His discourse was on the literary tendencies and demands of the age.

In November, 1842, his health gave way under his unre-

mitted labors, and he had a serious fit of illness. He recovered very slowly, and he was obliged to give up his usual course of judicial duties at Washington, and remain at home during the winter. This was the only session of the Supreme Court which he failed to attend, from the time of his appointment to that of his death, — a period of thirty-three years.

In the early part of 1843, his "Commentaries on Bills of Exchange" were published. This subject had been treated by previous writers in connection with that of Promissory Notes; but Judge Story deemed it expedient to discuss the law relating to bills of exchange by itself, and in the preface gave his reasons at some length for the change. This work was dedicated to his associate and friend, Professor Greenleaf.

In 1845, he published the last of his legal treatises, his "Commentaries on the Law of Promissory Notes"; which was received with the same favor as his earliest works.

For some time before his death, Judge Story had been meditating a resignation of his seat upon the bench. The distaste for locomotion, natural to declining years, was beginning to steal over him, and each year increased his disinclination to leave his happy home for a winter journey to Washington. He felt, too, that the voice of nature protested against the unbroken and exhausting labors which his judicial and professional duties, united, exacted of him, and demanded that something should be given up; and he had determined to devote his whole time and energies to the Law School, in which he felt an ever-increasing interest, and to the preparation of the legal treatises which he had meditated, but not executed. Besides, though his personal relations with his brethren of the bench were entirely agreeable, Washington was no longer to him what it had been in the days of Marshall. A change had come over the spirit of the Court; and the constitutional opinions of that illustrious man, and his own, no longer swayed the tribunal. He had been com-

pelled, in more than one instance, to dissent from the judgment of the Court, and he felt that in the future the divergence was more likely to increase than to diminish. From this duty of dissent he never shrank: but opposition and disagreement were not congenial to a nature so sympathetic as his.

In the early part of the year 1845, he had come to the fixed determination of resigning his judicial position; and he left Washington in the spring of that year with a heart all the lighter, from the thought that he was to return to it no more. Upon coming home, he immediately addressed himself to the task of clearing the docket of the Circuit Court, so as to leave no legacy of unfinished work to his successor. Many of the cases were intricate and difficult, and the arduous labors they required bore heavily upon his strength and vital energies; though, such was the buoyancy of his spirit, it was not perceived at the time.

The last time he appeared in public was on the third day of July, 1846, when a festival was given in celebration of the completion of a large addition to the Law Building, which the increase of the Law School had made necessary. An address was delivered by Mr. Choate on "The Profession of the Law as an Element of Conservatism in the State"; a brilliant and striking performance, included in the collection of his writings published after his death; but wanting, as read, that indescribable magic of voice and eye which gave force to its eloquence and wisdom when heard. After the address, the audience dined together in the library of Dane Hall. Judge Story made a speech, in which he gave a history of the foundation and growth of the Law School, and paid a generous tribute to Mr. Dane. The writer of this sketch was present on this occasion, and he well remembers Judge Story's high spirits and keen enjoyment of the day. He had never seemed in better health, and his whole manner betokened the satisfaction with which he looked forward to

the unbroken pleasures of domestic life and the uninterrupted discharge of the duties of his professor's chair. But these fond anticipations of future usefulness and happiness were not destined to be realized, and the end of earth was near at hand.

By the beginning of September, he had finished the hearing of all the cases pending before him, and had drawn up judgments in all but one, and that was nearly completed. The severe labor which these tasks imposed, and the heat of the summer, had greatly exhausted him; and, while in this prostrated condition, he took a slight cold, which was followed by a violent internal stricture, from which he was not relieved until after many hours of great suffering. But after the disease was conquered, his exhausted system did not rally. His strength daily declined, in spite of the best medical advice and the most careful nursing. On Sunday, September 8, he called his wife to his bedside and said to her, "I think it my duty to say to you that I have no belief that I can recover; it is vain to hope it: but I shall die content, and with a firm faith in the goodness of God. We shall meet again." In the course of his illness he said, that, but for his state of health, his letter of resignation would have been on its way to Washington. On Tuesday night, about midnight, a change took place, and it was evident that the hand of death was on him. Throughout the whole of Wednesday, September 10th, the tide of life was slowly ebbing from him. He lay mostly without consciousness, and apparently without pain, throughout the day; and at nine o'clock in the evening, his last breath was drawn.

The news of his death threw a gloom over the community, all the deeper from the fact that none but those who lived in his immediate neighborhood were prepared for it. His illness had been brief; he had not reached the period of life at which death seems a natural event; and there was something startling in the sudden transition from the exuberant activity

he had always shown, to the stillness of the grave. Resolutions were adopted, and speeches expressive of the highest respect and admiration were made at the opening of every court over which he had presided, and also of the Supreme Court at Washington. Several interesting discourses were pronounced from the pulpit in honor of him. On the 18th of September, the sixty-sixth anniversary of his birth, a beautiful and impressive eulogy upon him was delivered by his colleague, Professor Greenleaf, before the pupils of the Law School. In the courts of the United States, in New York, Pennsylvania, Tennessee, Louisiana, and Mississippi, his death was also appropriately noticed.

Judge Story was about five feet eight inches in height, with rather broad shoulders, and a compact and active figure. He was very animated in his movements, and, to the last, moved with the quick, elastic step of youth. His complexion was fair, his eyes were blue; and his hair in youth was auburn, but in early manhood he became bald. His mouth was large and full of expression. Of the many portraits and busts which were taken of him, there is no one which reproduces the full charm of his countenance, lighted up as it was by the readiest and most beaming of smiles, and glowing with kindliness of heart and unaffected sympathy. His manners were simple, unassuming, and cordial. Every thing about him — his look of welcome, the warm grasp of his hand, his hearty and contagious laugh — was expressive of a happy temperament, an affectionate heart, and a spirit singularly sweet and sunny.

He was a man of large capacity and various faculties; and with such intellectual force, such great propelling power, that, whatever might have been the sphere allotted to him, he could hardly have failed to have risen to eminence in it. His perceptions were wonderfully quick, but his knowledge was as enduring as it was readily acquired. His memory was "wax to receive, and marble to retain." And the accu-

racy of his knowledge was as remarkable as its extent, though this was sometimes questioned by those who did not know him well, and took it for granted that a mind so rapid in its movements could not be either exact or profound. His crowning and conspicuous quality was his industry, wherein no man within the writer's knowledge ever excelled and very few equalled him. Many men will work hard in order to secure the prizes of life, wealth, office, or fame; and, when these are won, they begin to grow self-indulgent, and are content to live on their intellectual capital, without adding to its stores. Not so Judge Story; for with him labor was a necessity of his nature, and he must have ceased to live before he ceased to work. The profession of the law, which he chose, was that which afforded the best scope and sphere to this persevering industry; for of eminence in the law it is not too much to say, that three parts out of four are made up of hard work. He was mainly, almost exclusively, a lawyer, and presented an example of an undeviating devotion to his profession more common in England than in our country, where professional eminence is apt to prove the stepping-stone to the more showy, and, to many natures, the more tempting, honors of politics. His love of literature continued through life; and his literary productions, though honorable alike to his talents and cultivation, were never regarded by him as any thing more than occasional relaxations from the severity of his professional and judicial toils, the "*solicitæ jucunda oblivia vitæ.*" It was as a lawyer and a jurist that he wished to be judged, and hoped to be remembered. And the lawyer labors under this disadvantage, that the general public can take but little part in awarding to him the meed of praise which is his due. The orator, the poet, the novelist, the artist, appeal to the popular judgment, and by this they must stand or fall. But not so with lawyers, nor, as a general rule, with men of science. These must be tried by their peers. The place of the lawyer is fixed by lawyers, as the place of the mathematician is fixed by mathematicians.

That Judge Story was a great lawyer, both in the original force of his mind and in his prodigious attainments, is what no man competent to judge, and free from prejudice, will for a moment deny. Judge Prescott, a man careful of his words, and not inclined to overpraise, said of him, in a letter written in 1840, "I believe him the greatest jurist now living in either country," meaning England and America; and that this would not be deemed too much to claim for him, even in England, may be inferred from the fact that Lord Campbell, in the course of a debate in the House of Lords, characterized him as "the first of living writers on the law." If among his contemporaries there were some who were not inferior to him in grasp of legal principles, in logical power, in accuracy of legal perception, there was no one who equalled him in the range and depth of his learning. In England, the division of legal employments limits the professional attainments of their lawyers and judges to a narrower sphere. One man devotes himself to equity law and one to common law, and neither intrudes upon the province of the other. Take the two brothers Lord Stowell and Lord Eldon, for instance; the former was confined to ecclesiastical and admiralty law, and the latter to equity law. But the jurisdiction of the courts of the United States compelled Judge Story to range over a far wider region of legal investigation than any English judge. He had to hear and determine questions in equity law, in commercial law, in admiralty law, in criminal law, in constitutional law, in the law of copyright, and patent law; the two last being branches of law which the judges of the State courts in America are not called upon to examine, except occasionally and incidentally. But in all these departments Judge Story's learning was profound, accurate, and ready. He was not, like some judges, strong in some points and weak in others, but in every part of the law he was upon perfectly familiar ground. Administering justice in a community largely engaged in commerce, he might be expected to be, as

he was, thoroughly versed in commercial law; but he was equally at home in all the technical and recondite learning of real property. He had made himself master of the uncouth lore of "Coke upon Littleton." With every department of equity law, the broad and liberal spirit of which was peculiarly congenial to his taste, he was as familiar as if he had been trained a chancery barrister, and sat on the bench as an equity judge. With the now obsolete science of special pleading he was perfectly acquainted, and recognized its value, alike as a means for expediting the despatch of business, and an excellent instrument for training the logical faculty. His opinions on constitutional law have in their careful analysis, luminous exposition, and vigorous grasp, no rivals save the immortal judgments of Marshall. In knowledge of admiralty law, alike of its origin, history, and practical application, there is no one but Lord Stowell to rival him; and, in learning, at least, the finished judgments of this great lawyer and accomplished scholar are not superior to those of Story.

To the important department of patent law, as administered and understood in America, Judge Story's contributions were more abundant and weighty than those of any other judge, or perhaps those of all his brother-judges on the bench during his time. The people of New England, as is well known, are full of inventive faculty, and most of the labor-saving machines and contrivances which have done so much to lighten the burden of the primitive curse are of New-England origin. Judge Story's circuit embraced four of the six New-England States; and during the whole of his judicial life, the dockets of his courts were crowded with patent-cases. When he first went upon the bench, the law of patents was in a rudimentary and imperfect state. In England, it had been a field of contest between the common-law lawyers and the equity lawyers; the former regarding a patent as a monopoly, and as such to be strictly construed, and the latter

viewing it with a more liberal spirit. But, in this conflict, practical injustice had often been done to inventors, and the system of patent law was wanting in symmetry and proportion. The courts of America, at that time, had contributed almost nothing to the science. In the earliest cases that were tried before him, the counsel were accustomed to apologize for their timid step and cautious movements, on the ground that they were traversing an unknown path. Judge Story prepared himself for the first patent case that came before him, by a thorough study of every reported case on the subject, and he kept pace with the rapid growth of the law during his time; and we do not think it is too much to claim for him the honor of being the most thorough and able patent lawyer that has yet administered the law, whether in England or America. Indeed, a good and satisfactory system of patent law might almost be compiled from his decisions alone. It was a department of the law which he took particular pleasure in studying and administering, where his quickness of apprehension and discriminating faculty found a congenial sphere, and he had a natural aptitude for comprehending mechanical contrivances and inventions. His learning and skill were guided by a liberal and generous spirit. In his eyes, the inventor was not a grasping monopolist, but a benefactor to his kind, whose substantial rights were never to be sacrificed to narrow technicalities; but were, if possible, to be always protected against unauthorized invasion, though they came under the specious guise of seeming difference.

Upon the kindred subject of copyright, several important questions came before Judge Story during his judicial life; and his opinions therein have the same merits of liberal interpretation and equitable construction as mark his judgments in patent cases.

To understand Judge Story's merits as a lawyer, he must be studied in his judgments, as contained in the Reports of

Gallison, Mason, Sumner, and Story, exclusively devoted to his own circuit, as well as those found in the volumes of Cranch, Wheaton, and Peters, reporters of the Supreme Court of the United States. His text-books, admirable as they are, — affluent in learning, luminous in exposition, and abundant in illustration, — can hardly claim the same comparative rank as his recorded opinions. In these, the powers of his mind found exactly the expression that was best adapted and most congenial to them. The opinions of a judge in reported cases may be looked at in a twofold aspect: first, Are they correct as expositions of the law? and, second, What is their value as contributions to the literature of the profession? — and in both respects the opinions of Judge Story are of eminent worth. No man in America has done more to determine the law; and there is no one whose conclusions have been accepted with more general assent by the profession. But a judgment upon an issue of law may be correct in point of fact, and yet furnish very little help to the future inquirer who is pursuing a similar path of investigation. But the great excellence of Judge Story's opinions consists in the flood of learning which he pours over the subject under consideration. Many of them may be received as authoritative and exhaustive expositions of the law at the time they were pronounced, making all further or collateral research superfluous. Thus to the student who is investigating a legal question, and not merely seeking the solution of a legal problem, his judgments have a value hardly equalled by any in the whole range of legal literature, whether English or American. This may seem a strong statement; but it is not lightly made, and it could not be supported without going into a discussion which could be interesting, or indeed intelligible, only to the professional reader.

As a *nisi-prius* judge, presiding over jury trials, Judge Story was remarkable for the quickness of his perceptions, and the uniform courtesy with which he treated all who appeared

before him. His mind was always rapid in its movements; and few men that have studied so much have ever learned so quickly as he. Long familiarity with judicial duties had enlarged a power always great; and upon the bench he displayed a quickness of comprehension that was like intuition or inspiration. The many questions of evidence and practice that came before him were decided without a moment's hesitation, and on grounds that were sufficient to any man who had not given up every thing to his client, and left nothing for the truth. His manners on the bench were the natural expression of his sweetness of nature, and they had all the charm that belongs to what is true and spontaneous. His countenance always wore a winning and benignant look, and the longest and dullest case never seemed to throw over it the slightest cloud of gloom or irritability. And his courtesy was uniform, recognizing no distinction of age or professional rank. Indeed, his kindliness of heart inclined him to turn a countenance of peculiar favor to the young, the self-distrustful, and the unsuccessful. When he had occasion to suggest to a lawyer some case that he had overlooked, or some principle that had escaped him, he did it in a way that left no sting behind. He never indulged in sneers or sarcasm, and did not allow himself those judicial sallies, which, though they may make the by-standers smile, rarely fail to disconcert a sensitive advocate, already perhaps overburdened with the care of a difficult or hopeless case.

But there is no judge that escapes criticism. In every case that is tried before a jury, one party must lose; and there are few lawyers that are philosophical enough to ascribe their defeat to essential defects in their law or their facts, still less to their own want of skill or tact. Thus Judge Story was sometimes accused of indicating, in his charges to the jury, a little too distinctly on which side he thought their verdict ought to be. If this were true, — and perhaps the charge is not wholly without truth, — it was because of his strong love

of justice, and his earnestness of temperament; and it is a very slight flaw in a judicial reputation of such unrivalled brilliancy.

As a teacher, Judge Story was all that might be expected from his knowledge of the law, his love of the law, and his enthusiastic and sympathetic temperament. Every pupil who came within the sphere of his influence felt the magnetism of his presence. His glowing countenance, his earnest manner, his cordial smile, acted with kindling and animating effect upon all. He was one of those men that never grow old; and thus his perpetual youthfulness of spirit made him, so far as sympathy and comprehension went, the contemporary of his pupils to the last. He never lost his interest in his work; the hour when he was to meet his classes was welcomed with delight; and, when it had closed, he shut up his book and left his chair with regret. His long and varied experience at the bar and on the bench enabled him to illustrate the propositions of the text-book upon which he was lecturing with a large number of apposite cases and appropriate anecdotes; and he was fond, occasionally, when the opportunity offered, of giving his reminiscences of the great lawyers and advocates who had appeared before him. In his lecture-room there was nothing of formality or stiffness; every thing was easy and unceremonious; the great lawyer and magistrate — too great to require any barriers to protect his dignity from a near approach — was the most familiar, and even playful, of men. But never was there for a moment, on the part of the young men who sat under his instructions, the slightest expression of disrespect. Never was the relation between them forgotten. His pupils felt for him a peculiar mixture of veneration, gratitude, and love. He became the personal friend of all who showed a right to his friendship by their talents, industry, and worth. In them he never lost his interest, and their fate and fortunes were followed by him to the last with an almost paternal feeling.

The character of Judge Story as a man, what he was in the private and domestic relations of life, may easily be inferred from what has been before said. His marked traits were warmth and kindness of heart, quickness of sympathy, a freshness of feeling enduring to the last, an entire absence of self-assertion, a frank, open, unsuspicious temper, and a sweetness of nature, which nothing could change. As a son, brother, husband, father, and friend, he was all that duty could command or affection inspire. He never lost a friend but by death; and no man was more mindful of Dr. Johnson's injunction to keep his friendships in repair. His latest friends were the children of those who started in life with him. Few men were ever more loved or more mourned than he. His judgments of men were kindly and charitable; malice and bitterness were unknown to him; he not only never indulged in evil-speaking, but discouraged the practice in all, and reproved it in those whom he had a right to reprove. There was a peculiar charm in his presence, from his vivacity of feeling, his quick sympathy, and that youthfulness of heart which he kept to the last. There was nothing of torpor, languor, or apathy, either in his temperament or his manners. Much study was never a weariness to his spirit. After a long day of severe toil, joining the domestic circle, he would seem the gayest and youngest of the party, whoever might be present. He was very fond of society, though too busy to indulge himself in it often. He was entirely independent of those amusements in which most men of laborious lives find a grateful, if not a necessary, relief from the burden of habitual toil. He cared nothing for farming or gardening; he probably never had a gun or a fishing-rod in his hands; he never played cards, or rode on horseback, or even took a walk for exercise. Occasionally, though very rarely, the presence of a great performer tempted him to the theatre. He was fond of listening to music if it came in his way; but he did not care enough about it to go after it. There was no pleasure he enjoyed so

much as conversation, and it was his only relaxation. He was sometimes accused of taking more than his fair share of the discourse in mixed society; but this was a charge never brought against him by his pupils, who were always happy to be listeners in his presence.

To the honors of general scholarship Judge Story made no claim. His attainments in literature were mostly confined to his own language, and in this they were more than respectable. In his youth, he had made himself well acquainted with the standard writers of England; and he found time to read the popular authors that rose to distinction in his own day, from Byron and Scott to Dickens. Among the modern poets, his favorite was Crabbe.

His style — formed at a time when the poetry of Darwin was admired, and the prose of Junius was thought the perfection of English — was always somewhat wanting in simplicity and compactness, though flowing, persuasive, and sometimes eloquent. His literary productions, it should be remembered, were always written rapidly, to meet a particular occasion, and in moments stolen from professional toil.

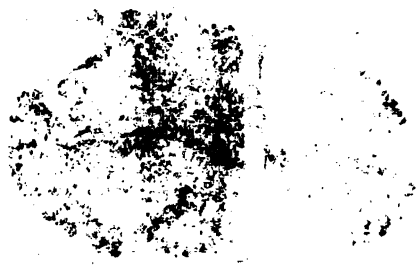
The life and character of Judge Story had the crowning grace of a strong and practical religious faith. He had a firm belief in the divine origin of Christianity, the result of reflection and inquiry; and he often expressed a purpose of writing a work in which the rules of legal evidence should be applied to the facts of the gospel narratives, and the question of their truth argued like a case in a court of justice. The joys and sorrows of his life were received by him as alike expressions of the will of God. He was submissive under trial, and deeply grateful for the blessings which had fallen to his lot. His life had been eminently successful, and, with the exception of the loss of so many children, it had been eminently happy. He has more than once said to the writer of this sketch, that the honors he had earned and the position he had won were far above the fondest dreams of his youth. His gratitude to God

was a strong personal feeling, like that of an affectionate child to a wise and loving father. He had, in a large measure, the Christian virtue of humility. No man ever assumed less or claimed less for himself than he. A man's character is never fully gauged till we know what he was to his inferiors, — his children, his servants, and his dependants. No man would have borne this test better than Judge Story; for he was best loved by those who stood the nearest to him and saw the most of him. He was kind to all and courteous to all, simply because kindness and courtesy were a part of his nature, and never had to be put on. In his declining years, his conversation and society had peculiar attractions for the young; and the main reason of this was, that he never claimed any superiority over them, either by reason of age or high place. He mingled with them as an equal, sympathized with them as an equal; so that the shy and sensitive student who went into his presence with fear and trembling, became his trusting friend, and often opened to him the most secret chambers of his heart. His influence over the young was always for good. He spurred the indolent, encouraged the desponding, and confirmed the irresolute.

Alike by precept and example, he discouraged harsh judgments, evil-speaking, and the spirit of strife. He was very fond of enforcing and dilating upon the truth, that no man ever stands in another man's way. The world, he said, was wide enough for all; and, if any one lacked advancement, it was his own misfortune or his own fault, and not the fault of any one else.

SUMNER

MEMORIAL.



MEMORIAL RECORD.

IN MEMORY

OF

HON. INCREASE SUMNER,

OF GREAT BARRINGTON, MASS.

A FUNERAL DISCOURSE,

BY

REV. EVARTS SCUDDER.

WITH

AN APPENDIX,

CONTAINING

OBITUARY NOTICES OF THE PRESS; RESOLUTIONS AND PROCEEDINGS OF THE BERKSHIRE BAR; AND DEDICATORY EXERCISES OF JULIA SUMNER HALL.

BRIDGEPORT, CONN.:
GOULD & STILES, (FARMER OFFICE,) COR. WALL AND WATER STS.

1871.

SERMON.

JOB 3: 19.—"The small and the great are there."

IN the hour of this nation's sorest need, when the powers of darkness seemed to be almost triumphant, our President was suddenly struck down by Death. Upon the day of his funeral while nearly the whole nation were in tears, I carried to the grave the body of a little boy who was unknown by many in his own native village. Looking into the grave upon that day we realized the truth of Job's words: "The small and the great are there." "They shall lie down alike together." The dust of one is as good as the dust of another. There is no wealth in the grave. Kings leave their sceptres. Master and slave meet there and know no distinction. The idiot and the scholar, the beggar and the millionaire, the small and the great are there. Death hesitates not to bid the man of business lay down his ledger, the warrior his sword, or the judge his ermine. No insignia of rank, or marks of beauty, or proofs of usefulness stop him as he summons his followers, one by one, and marches on. O what a mighty host is the army that he gathers!

How its ranks increase as they follow their mighty captain obediently, silently, and swiftly from house to house, to palace and hovel, to the battle-field, to hospital and to prison, now to some far off vessel upon the sea, and then to the crowded city or country village, making no distinction, granting no discharge, inexorable, irresistible—the long invisible army of the dead!

The inexorable demand of Death appears more striking when we think of the hopes which some cherish of avoiding death. Some imagine that *youth* will necessarily exempt them from Death's call. But a larger number die in youth than in old age. How often those who seem to have a reasonable hope of a long life are suddenly summoned by Death. Some youth in this assembly with perfect health, vigorous, temperate and expecting to live long, whom an insurance company would unhesitatingly insure for almost any amount, may be the next one obliged to die. "Boast not thyself of to-morrow."

Usefulness does not hinder Death. Yet many imagine that they, or some friend of theirs, cannot be spared just yet from earth. The thought of work to be done, of unfinished plans, of influence for good impresses them with the feeling that their appointed time is not at hand. They reason thus: "God has put me here for some purpose. The days of our years are three score years and ten. It takes as long as that to accomplish much of anything. Even with the future life to compensate for this, may I not reasonably expect to live out the full measure of my days? What does a life amount to that is cut off just as it is begun!" So we reason; but God's thoughts are not as ours, and He often destroys man's hope. The most useful, those whom

the world seems to need the most, whose influence, conscious or unconscious, is most positively good, the friends of every good enterprise, the friends of virtue and of peace, the friends of the poor, those fitted by natural endowment and culture to fill any office of trust and power, how often are these shining marks for Death's arrows! The most useful as well as the youngest, are often the very ones whom Death is most eager for.

You need not be reminded that *love* is no protection against Death. Those loved the most, to whom we cling with the tenderest affection, those leaned upon, or because of some infirmity cared for with sleepless vigilance, these, O how certain to be summoned away just when we loved and needed them the most!

"But if Death hesitates not at a man's door for any other reason, surely that man's *religious character* is a matter which Death takes into consideration, is it not?" We answer, No. It makes no difference how much or how little goodness a person may then have. He may be a spiritual millionaire, or the veriest pauper in morals; he may be like a garden full of weeds and the seeds of weeds, with no room for one blade of honest grass; and yet Death will not wait for one weed more to be rooted out, or for one flower more to blossom. "It is *appointed* unto man once to die." The day for Death to dismount from his pale horse and to knock at your door, or at mine, is already chosen; and when that day comes it will make no difference with him whether we have lived as we ought to live or not. We may then be illustrious for virtue of every hue, or we may be the talk of the town for the faults and vices that we are guilty of; we may have fought successfully many a hard battle with sin, or we may

have skulked away and even have sold ourselves to the enemy; nevertheless, when that appointed hour strikes, Death will be at our door, and no bar or bolt can keep him out. My friend, at that moment, which will soon be here, you may have arranged your affairs without having made any preparation for the last and greatest duty—the duty of dying. You may then be utterly unready, with everything to see to, and yet it will not make one second's difference with that unrelenting messenger of God. No entreaty will avail with him. No excuse will delay his coming. He may surprise you in the midst of important work; you may be just entering your closet for the first time to pray; but he will not wait for you to pray—he will not wait for you to give yourself to God. Why should he? Have you not had time to prepare for death? Have you not had warning? Has not God spoken in His word and in His providence? Have you not heard the gospel? Have you not read the Bible? Well may Death himself be startled not to find you ready, and he might exclaim: "Have you not seen the notice of my coming, printed on every gravestone, sounded by every church-bell, repeated at every funeral, by every sermon, by every ache and pain in your body, preached to you by every setting sun and falling leaf? Not ready for my coming! Why, how old art thou? Twenty? thirty-five? sixty years? and still unprepared to die! It matters not—this warrant I must serve!" And, my friend, his summons you will obey.

This fact, that there can be no postponement of Death's coming when the appointed hour arrives; that no condition in life and no type of character can avert or delay the execution of that sentence of death passed upon all men,

ought to convince every one that a preparation for death consists in something else than a good character and a holy life.

The impression with many is, that one must prepare for death by a long and faithful struggle with faults; that the character must be pruned and ripened; that one must at least have got the better of besetting sins, and must have earned, in the estimation of his fellow-men a fair title to the heavenly inheritance; that he must be able to present an argument at the bar of God's judgment for his own acquittal, based upon at least a respectable degree of good intention. But such a preparation is utterly impossible. If a right moral character be the necessary preparation for death, God's perfect law is the only test of that preparation; but we read—"He that offendeth in one point is guilty of all," and also that "all have sinned and come short of the glory of God." Now, where is the man who can stand the test of God's perfect law? Who is there "perfect as our Father in heaven is perfect?" What one of you would dare stand to-day at God's bar, and plead, "Not guilty?" Though you may have kept God's law to-day, there is the sin of yesterday! The sins of all the past, are they not witnesses against you, and do they not prove you unprepared to die?

Moreover, if right living be the true and only preparation for God's final judgment of us, why does not Death give all an equal chance? What means it that Death is so unyielding in his demands, and bids man put on his white livery and depart at once, whether he be ready or not? Why does not Death give every man a full opportunity of making the necessary preparation, by overcoming sin and perfecting a character which will be able to stand God's

scrutiny? Here is one who is beginning in good earnest to repent of sin, but he is full of faults; sin is rooted in him; and his heart is all tied up by bad habits. Why does not Death postpone his coming to that soul, if eternity can be prepared for only by the possession of a spotless character.

Thank God! the reason is, that to be saved, one need only trust in the Lord Jesus Christ—God's Son—who died that sinful men might, in spite of their sin, be ready for Death's summons, however early and however suddenly he might come. This is the preparation to be made. "Other foundation can no man lay." "He that believeth shall be saved." "Who shall lay anything to the charge of God's elect? It is God that justifieth. Who is he that condemneth? It is Christ that died." *This* is the argument with which to plead successfully at God's judgment bar *Not* the argument from a holy life; *not* the argument from a tolerably respectable and average morality; *not* that from good intentions—but the argument based upon the atonement and mediation of the Son of God. This argument begins by pleading guilty and admitting all the counts in the accusation. The accused *is* a sinner and does not pretend to deserve one iota of God's favor. He cannot contradict or excuse the facts. Yet he has one plea which never has failed and which never can fail, because God bids him make it,—the plea that Jesus died *for him* upon the cross. He who is ready to go before God with this, and only this ground of hope, is prepared to die. He has retained Jesus Christ as his advocate, and therefore may quietly await the summons of God's High Sheriff, Death.

Friends: to just this preparation we all are limited. Whoever we may be; however we may have lived; how-

ever nobly, usefully, beautifully; whether we be rich, or learned, or eloquent, or famous, or quite the reverse; whether we go to the grave "unwept, unhonored and unsung," or followed by a throng of weeping friends, lamented by the whole nation it may be; our hope can only be in the grace of Jesus Christ, God's Son. Answering Death's summons, the soul in readiness replies:

"Just as I am, without one plea,
But that thy blood was shed for me,
And that thou bid'st me come to thee:
O Lamb of God, I come."

We have directed your attention to this thought partly because it was this that occupied and comforted our friend in his last sickness. *Judge Sumner*, after nearly seventy years' experience, about fifty of which were spent in professional study and practice, accustomed to measure the character and to test the motives of men, intelligent and honest, emphatically said that his life had been "far different from what it should have been," and that his hope was "only in the mercy of God through the mediation of His Son."

There was much to admire in his life and character. His self-education, for he was graduated at no college; his great physical vigor and untiring industry; his wonderful memory; his legal learning and his success as a lawyer; his perfect integrity in all public office; his friendliness to the poor; his hatred of meanness and dishonesty; his warm and generous love for his family and friends; these facts and traits rendered him worthy of the respect felt by all who

knew him well. His long, successful, useful and honorable career, should encourage every other farmer boy on our New England hills to a similar hope and effort.

But all his honors, all success that he had had, and his whole influence as a man and lawyer, he desired to lay down at the feet of Jesus Christ, and to take his place with the very worst criminal as a guilty, sinful and unworthy man; hoping, as he himself said, "only in the mercy of God through the mediation of Jesus Christ, His Son."

I know that he had faults—(who has not?)—many faults it may be, and he was ready to admit them; faults which his professional conflict with men was not fitted to disguise or soften; faults which, as he was a public man, subjected him to criticism and to the enmity of some; faults arising from a nervous and impulsive nature, which he did not conceal or resist as he ought to have done. All this I know, but as I remember them I also recall the words of the Master: "Judge not that *ye* be not judged."

I was sent for by him early one morning during his last sickness, and as I sat there by his bedside, I felt that it was an honest hour, and that I could believe him when, in various words, he told me that his hope was in the Saviour. "Only there," he said, "only there!" "O what a Saviour he is!" was his repeated exclamation. As I listened to his clear and earnest words about death, about the Saviour, I could not help wishing that he had stood up before men and plead the cause of Christ as ably and eloquently as he used to plead the cause of men. But I felt that the hour of death is an honest hour. That was with him an honest hour also, I think, at midnight on last New Year's eve. The clock struck twelve, and the new year began. He noticed it with

pleasant words of reminiscence and hope, and deeply impressed as he lay awake in that first hour of 1871, he said, "Let us pray the prayer our Lord taught his disciples." Thus *he* began the year.

[Since the above was written I have learned that at one time in his sickness when he was encouraged by the hope of recovery, he said, referring to the hour when he had seemed to be very near death, "I stood upon the brink and it would have been just as easy to step over to the other side as to step back—there was no pain and no fear." He talked much to his wife of God's mercy to him—"I have passed through great sorrow—four children gone—*you* know what it was for me to part with one of them—and a sorrow beyond that. But God has been kind to me through it all."]

As the sun was going down, last Friday afternoon, I entered his home and found that the sunset of his life was just at hand. His three score years and ten were nearly ended—and as he quietly breathed his last, we knelt down and prayed, "Lord Jesus receive his spirit." With that Lord we leave him, as we ourselves must be left by those who shall weep for us. And we can leave him so, for that Lord does all things well.

APPENDIX.

NOTICES OF THE PRESS.

From the Pittsfield Sun, February 16th, 1871.

THE LATE JUDGE SUMNER.

INCREASE SUMNER was born at Otis, May 13th, 1801. His father was Daniel Sumner, a native of Middletown, Conn., and one of the early settlers of Otis. He had a family of seven children, of whom Increase was the fifth. He had but limited opportunities for early education, but early developed a taste for study, in which he was encouraged by an older brother, who was a medical student, and afterwards an esteemed physician.

In 1820, Increase became a law-student in the office of Hon. Lester Filley at Otis, where he remained for a period of five years, during a considerable of which time he was engaged in teaching school as a means of paying his way.

He taught school in Otis and in Sandisfield, and in the towns of Kinderhook and Cambridge in the State of New York.

In 1825 he removed to Great-Barrington. He had intended to locate in Springfield, and always deemed it the mistake of his life-time that he did not do so; but the removal from Great-Barrington of William C. Bryant created a vacancy there, and Mr. Sumner was his successor as it were. Several of the law books in his library bear the autograph of William C. Bryant.

The record of Mr. Sumner's career as a lawyer is best shown in the law reports of the State, extending over a period of forty years, and is familiar to the profession. His practice was not restricted within State lines, and he tried many causes in the neighboring States of New York and Connecticut.

Mr. Sumner was twice a State Senator, and declined another election when his party was predominant, and he would undoubtedly have been President of the Senate. He was three times a member of the House of Representatives, the last time being in 1859, when the General Statutes were revised, and the position of Mr. Sumner on the Judiciary Committee was such that more labor devolved upon him in connection with that Revision than upon any other member of that Legislature.

He was Democratic candidate for Congress in 1844, his successful competitor being the Whig candidate, Hon. Julius Rockwell.

In 1851 he was appointed by Governor Boutwell, District Attorney of the Western District of Massachusetts, then comprising four Counties, and served as such two years.

In 1853 he was elected to represent his native town, Otis, in the Constitutional Convention. He was three times a candidate of the Republican and American parties for the office of Lieutenant-Governor, and in 1856 was Delegate to the Convention at Philadelphia which nominated Millard Fillmore for President.

During the early part of his career he held various town offices; and was Postmaster at Great-Barrington during the Van Buren and Tyler administrations.

In 1849 he was appointed by Governor Briggs one of the Commissioners on the part of Massachusetts to negotiate with Commissioners of Rhode Island for settlement of the boundary line between those States. His associates were Tappan Wentworth of Lowell, and N. B. Bryant of Barre.

In 1854 he was appointed by Governor Washburne to act with Levi Lincoln of Worcester, and Edward Jarvis of Dorchester, as a Commission to investigate the condition of the State institutions for Insane and Idiotic persons, and to report a plan and location for a new Hospital. Much time and labor were expended in performing the duties of this commission, and the Report made by it was published by order of the Legislature, making a volume of 200 pages.

The last public office held by Mr. Sumner was that of Judge of the District Court of Southern Berkshire, to which he was appointed by Governor Claflin to hold for life, and which position he occupied at the time of his decease.

Judge Sumner's career throughout was remarkable for singular devotion to the duties of his profession. He was a born lawyer, and loved his calling. He never slighted a cause, and always took the laboring oar, when others were associated with him.

The files of the Berkshire Courts embrace more matter in his hand-writing than in that of any other lawyer at the bar, except the County Clerks, since the Bar of Berkshire had an existence. He was not only learned as a lawyer, but eloquent as an advocate. He was a dangerous antagonist before a jury.

Aside from his legal and official labors, he found time for other congenial pursuits. He had fine literary tastes. At one period of his life he wrote many poetical effusions, several of which were published. His orations and addresses, on political, agricultural and literary topics, would fill volumes. He accumulated a large miscellaneous library, in which none of the really standard works were missing. No man was better acquainted with such authors as Bacon and Burke than he. Whatever defects might have existed in his early education were obviated by subsequent study, and his scholarly attainments were recognized by the Corporation of Williams College in 1839, when that institution conferred upon him the honorary degree of Master of Arts.

The Chapter in the published Life of Governor Briggs, relating to the Governor's career at the Bar, was written by Mr. Sumner, and the whole work

would have been prepared by him and under his supervision, if his professional engagements had left him leisure to assume the undertaking.

In his private life Judge Sumner was a man of singular integrity, and in all his dealings, above reproach. In the community where he lived he had no peers, and by some he was regarded, perhaps justly, as too brusque in his manner, and imperious in his bearing. Had he lived in the midst of a large community, these little characteristics would have passed unnoticed. In his domestic relations he was kind and tender, and among his neighbors

> "Lofty and sour to those who loved him not,
> But unto such as sought him, sweet as summer."

But those who loved him least, will not hesitate to allow, that although there might have been something of the tiger in his composition, there was nothing of the *snake*. What he thought, he made people understand, but there was no double-facedness about him. For the mean man he had intense disgust, and to the man who dealt dishonestly he was ever a terror.

Among his brethren at the Bar, Judge Sumner was regarded with more than respect and admiration. It was with affection. At the recent Bar Meeting and Banquet, he was chosen by acclamation to preside, and that last meeting of his with his legal brethren cannot but be regarded as a fitting culmination of his long, laborious and successful professional career.

He died, having been less honored perhaps in his life than accorded with his deserts, but highly esteemed by those whose esteem was most valuable. Lesser men have held higher place, but it is believed that he is sincerely mourned, and that the best of those who knew him best will mourn him most.

From the Berkshire County Eagle, February 2d, 1871.

THE HON. INCREASE SUMNER.

After an illness of four weeks, the Honorable Increase Sumner, the oldest member of the Berkshire Bar, died at his home in Great-Barrington, on Friday last, aged 70 years.

Mr. Sumner was born in Otis, May 13th, 1801. He studied law for seven years (the time then required of those who were not college graduates), with Lester Filley, Esq., of Otis. On his admission to the Bar, at the June Term, 1825, he removed to Great-Barrington, where he resided until his death. He was always an active and successful practitioner, and for a long time has been the acknowledged leader of the Berkshire Bar. Although, as the phrase is, self-educated, he was a man of superior culture, and familiar, not only with the learning of his profession but with general literature and science. A man of strong convictions, and deep thought, yet he was not ashamed to change party ties when he thought he had good reason for so doing. In Van Buren times he was a Democrat; afterward was associated

with the American party, and later became a strong supporter of the Republican party. He had served often in both branches of the State Legislature; been nominated more than once for Congress; succeeded Mr. Porter of Lee, as District Attorney for the Western District; was a member, elected from Otis, of the late Constitutional Convention, and once served on a State Commission to investigate the causes of insanity and the treatment of the insane. His latest office, that of Judge of the District Court of Southern Berkshire, was given him within the year. Mr. Sumner was twice married. His first wife was Miss Barstow of Great-Barrington. He leaves three sons—children by his first wife—Col. Samuel B. Sumner of Bridgeport, and Charles and Albert, both of whom reside in California. His second wife was a Boston lady, who survives him.

When Mr. Sumner's death was announced on Saturday, in his own Court, a meeting of the Bar present was held, and a committee appointed to draft suitable resolutions, which will be reported on Saturday. The District Court of Central Berkshire also adjourned as a mark of respect to his memory. His funeral was attended on Tuesday. The services were a prayer at the house, and the usual services at the Congregational Church, and the burial service at the grave. The funeral sermon was preached by the Rev. Mr. Scudder of Great-Barrington, from Job 3: 19—"The small and the great are there"—and was a most eloquent and fitting discourse. Mr. Scudder was assisted by Rev. Mr. Maxcy of Bridgeport, and Rev. Dr. Olmstead of Great-Barrington. The places of business in the town were closed, and a very large concourse attended the services in the church.

High Sheriff Root and quite a number of deputies were present at the funeral, and the Bar of Berkshire was strongly represented. The pall bearers were Hon. George J. Tucker of Lenox, Hon. James D. Colt of Pittsfield, Hon. M. Wilcox of Pittsfield, H. J. Bliss, Esq. of North Adams, L. H. Gamwell, Esq., of Pittsfield, Hon. John Branning of Lee. Other members of the Bar present were Messrs. Dewey and Palmer of Great-Barrington, Bradford of Sheffield, Spaulding of West Stockbridge, Taft and Waterman of Lenox, Goodrich of Stockbridge, Filley, Pingree, Adam, Barker, Tatlock and Briggs of Pittsfield.

From the Alta California, February 19th, 1871.

DEATH OF INCREASE SUMNER.

REMINISCENCES OF THE OLD BERKSHIRE BAR—HIGH TRIBUTES IN MEMORY OF ONE WHO FOR A LONG TIME WAS ITS LEADING ADVOCATE.

From the Adams Transcript and Berkshire Courier, we copy the subjoined records in regard to the life and character of the eminent lawyer, Judge Increase Sumner, who died at Great-Barrington, Mass., on the 27th of January last. He was well known to a large number of the members of the bar in

this State, some of whom studied law in his office; and he leaves two sons who reside in this city.

The Adams Transcript of February 6th, says:

"The death of this eminent member of the Berkshire Bar occurred on Friday week, at the ripe age of 70 years. He had long been in feeble health, and at the recent Bar Festival in Pittsfield, the signs of age and ill-health were noticed by all, although his speech was marked by intellectual power and clearness. He died of typhoid fever, after a sickness of several weeks. At the time of his death he was Judge of the District Court of Southern Berkshire, and the oldest lawyer but one of the Bar. He was the last active member of that influential and distinguished group of men who ruled the Berkshire Bar twenty-five years ago. We can recall but five survivors—Sayles of South Adams, the Tucker brothers, and Judges Rockwell and Bishop of Lenox, and all of these, except Sayles, long since abandoned active practice. Sumner has now gone to join in the 'silent land' his associates and compeers—Briggs, Byington, Dwight, Whiting, Hubbard, Filley, Robinson, Field, Porter, Dewey and Lanckton. That was a notable circle of strong men, who used to contend in the lists at the old court-house at Lenox, and who, after the struggles of the day were over, and they had reached the parlor of the Curtis boarding house across the way, made the nights delightful and memorable with their sparkling stories and converse. Those were brilliant days and nights for the younger members of the bar, who never wearied at these rare and stimulating exhibitions of power and wit. Time and fate have changed all this, and rapidly removed these actors from mortal view. Among this famous company, Mr. Sumner was conspicuous for his legal learning, his skill and eloquence as an advocate, his tireless energy and indomitable will and courage in the conduct of causes. He was fond of social converse, and before ill-health and trouble had weakened him, he furnished an important contribution to the common enjoyment. He had failings and infirmities, like the rest, but these are now forgotten as we remember the stalwart will, the eloquent tongue, the keen wit, the robust conquering logic of this remarkable pleader. He loved the profession and devoted all his faculties to its practice. He was true to his clients, and fought for their interests with unquenchable ardor, and, for a long time, was the leader of the bar. Those who heard him in his prime, will not soon forget that rare forensic skill and powerful speech."

The Berkshire Courier of the 8th, gives the following account of proceedings in the District Court of Southern Berkshire, in respect to the memory of Judge Sumner:

"In this Court on Saturday, January 28th, as soon as the necessary business of entering and continuing cases was dispatched (Judge Bradford presiding), Mr. Wilcox of Pittsfield, referred to the recent death of Hon. Increase Sumner, the late standing Justice of said court, and expressed his respect for the character, ability and attainments of the deceased, alluded to some of the qualities which had enabled him to hold, for so long a time, a commanding position in Western Massachusetts, and closed by suggesting to the Court that a committee be appointed to draw up some resolutions, embodying in permanent form the feelings of those present toward Mr. Sumner, which resolutions should be reported at the next session of the Court and be entered on its records. Messrs. Branning of Lee, and Dewey of Great-Barrington, supported these suggestions, and Judge Bradford, after speaking briefly but eloquently of Mr. Sumner, appointed Messrs. Wilcox, Branning and Dewey as Committee. The Court, as a mark of respect to the deceased, then adjourned. On Saturday, February 4th, the Committee, through the chairman, Mr. Wilcox, presented to the Court the following resolutions:

"RESOLVED, That in the decease of the Honorable INCREASE SUMNER,

the community is bereaved of a valued and honored citizen, and the Bar of one of its ablest members, and this Court of its first Chief Magistrate. For half a century, nearly, he was a man of mark and commanding influence, not in the town of his early adoption and long residence only, but throughout this community and wherever known. And during the same period his career at the bar, in this his native county, suffers nothing in comparison with that of his distinguished compeers, Dwight, Briggs, Byington, Filley and Robinson, and others who have preceded him to the spirit land.

"He by nature was fitted for prominence and a leader in any community and at any bar.

"His efforts, whether before the jury or the Court, were always able, and at times rose to an eloquence rarely surpassed. His integrity was never questioned. He possessed great industry, logic and a sound judgment as well as eloquence, which, united with his characteristic fidelity and invincible will, achieved for him as a lawyer a position second to none in the history of the bar of Berkshire. He loved his profession, and practiced it with unabated zeal to the very last of life, and died ripe in years, having scarcely laid his brief aside.

"RESOLVED, That the decease of such a man, even though full of years and crowned with success, is no ordinary event, and well may we of the Bar surviving him study his example, if we would practice and emulate, his virtues.

"RESOLVED, That we extend to the widow, and family of the deceased, our hearty sympathies; and that these resolutions be extended upon the records of this Court, and a copy thereof presented to his family.

"Judge Bradford said that in compliance with the terms of the resolutions he would cause the same to be entered at once on the records of the Court, and a copy to be furnished to the family of the deceased. At the presentation of the resolutions, brief remarks were made by Mr. Wilcox only, it being the understanding of the members of the bar present, that the death of Mr. Sumner would be made the occasion for a meeting of the entire bar of the county, at which time all, individually by personal speech, and collectively by resolutions, could express their respect to the memory of Mr. Sumner, and their estimate of his character and work."

JUDGE SUMNER'S DEATH.--THE DISTRICT COURT OF CENTRAL BERKSHIRE.

News of the death of Judge Increase Sumner, of Great-Barrington was received in town on Saturday. The District Court was in session, but on motion of T. P. Pingree, Esq., it adjourned. The motion to adjourn was as follows:

To the Honorable, the District Court of Central Berkshire, its Judges and Officers:

The decease of our honored and distinguished brother at the Bar, Increase Sumner of Great-Barrington, the 27th instant, calls for some token on our part, of respect to his memory, and grief for our loss, as the public's generally, in the removal of so upright and able an officer of the Court, and such an example of integrity and faithfulness in the practice of the profession of law, as also in its administration as a Judge of a sister Court in this county.

Therefore, it is moved that this Court do now adjourn, as an expression on its part, of the sincerity of respect and esteem entertained for our late brother, and that this motion, with other expressions of like kind in writing, be placed on file and entered on the Docket.

Pittsfield, January 30th, 1871. T. P. PINGREE.

J. M. Barker, Esq., in seconding the motion, said:

It is with feelings of profound sadness, that I this morning, hear announced to your Honor the death of our elder brother and leader, Increase Sumner, of Great-Barrington. Himself a wearer of the ermine, it is doubly fitting that some record should be made in your Honor's Court, of the departure of so upright a judge, and so sound and able a lawyer.

The Superior Courts of Judicature will claim the right to enroll upon their records, and the whole Bar to move the usual expressions of admiration for the man; of regret at his loss, and of sympathy and condolence with the family of which he was the head.

But it is right and proper for the District Court of Central Berkshire, to take official notice of the death of the Justice of its sister Court, and it is not presumptuous for the bar of the County seat to add an expression of their sorrow for the loss of the lawyer, whose acknowledged talent and ripe experience claimed and received our highest admiration and respect. It is not too much to say that for years our juries have been accustomed to listen with delight to his eloquence, our courts to receive his words as carrying weighty sanction in the law, and ourselves to study his conduct and efforts at the bar, as our best examples of professional skill and learning, while his large circle of clients ever found in his perfect integrity a sure protection.

Judge Sumner died yesterday at his home in Great-Barrington. It is but a few weeks—a month ago to-day—that, called by one thought of all to be President of our Bar Association, he presided at our Annual Dinner, filled with the enthusiasm and genius, which had made his name so widely known and honored. Now the flashing eye is closed forever, the shapely hand of the orator is still, and the venerable head laid low in death. But the bright soul freed from the tenement of clay soars untrammeled, and the record of a life well spent remains as a legacy to us all. I have no qualification, may it please your Honor, which renders it proper for me to call your attention to our brother's death, except a deep respect and admiration for the deceased, and a lively gratitude for his uniform courtesy to the younger members of the bar, and I will therefore trespass no longer on your indulgence, or that of my brothers, save to second the motion that a minute of Judge Sumner's death be entered upon the record, and that the Court do stand adjourned in token of respect to his memory.

SUPERIOR COURT PROCEEDINGS.

At the February Term, 1871, of the Superior Court, in Pittsfield, appropriate action was taken in regard to the death of the Hon. Increase Sumner of Great-Barrington, for forty-five years a member of the Berkshire Bar. The subjoined resolutions were presented:

"At a meeting of the members of the Berkshire Bar, held this 28th day of February, 1871, Henry W. Taft, Franklin O. Sayles, Wm. T. Filley, Marshall Wilcox and Justin Dewey, Jr., were appointed a Committee to prepare suitable resolutions to be presented to the Superior Court now in session, upon the occasion of the recent death of the Hon. Increase Sumner, late of Great-Barrington. And in discharge of that duty the Committee present to the Court the following resolutions:

"RESOLVED, That the members of the Berkshire Bar, while humbly acknowledging the wisdom and kindness of all the dispensations of Divine Providence, desire here to express and record their profound sorrow, that death has deprived them of the counsels and companionship of their brother, so recently deceased, the Hon. Increase Sumner of Great-Barrington.

"RESOLVED, That resolutions such as these, proper to be adopted when any member of the Bar passes away from the earthly fellowship of his brethren, may well be attended with an expression of peculiar regard and affectionate respect, when one like Mr. Sumner has taken leave of his profession and his life at the same time, after an almost entire devotion to the duties of that profession, for a period of forty-five years, discharging those duties always with fidelity, industry, and extraordinary gifts of intellect and eloquence.

"RESOLVED, That the career of our late associate, in many respects, may well be referred to, as an example to young men of our honorable profession, and of every profession and occupation—particularly as showing the important and comforting truth, that inherited wealth is not necessary to success in life—but that industry and a resolute will can more than supply its place.

"RESOLVED, That we respectfully request of the Honorable Charles Devens, Jr., the Judge presiding at this term, to allow these resolutions to be placed upon the records of the Court, and to direct that a copy thereof, attested by the Clerk, may be transmitted to the widow and family of the deceased."

These resolutions, at the request of the Committee, were presented by Judge JULIUS ROCKWELL, with the following remarks, in substance:

MAY IT PLEASE THE COURT:

I most willingly follow the suggestion of the Committee of the Berkshire Bar, and present the resolutions which I have just read. I ask leave also, from my place at the Bar, which I occupied so many pleasant years, in the company of our deceased friend and brother, to speak a few words expressive of kindly and admiring memories of him.

According to the law, and the customs of those times, INCREASE SUMNER was admitted an Attorney in the Court of Common Pleas, in 1825; an Attorney in the Supreme Judicial Court in 1828; and a Counsellor in 1830. Since the latter period, I have known him and his professional life and character. But it was in January, 1834, that we met in Boston as members of the House of Representatives. It was my first and his second year in the House. We took rooms together during that session, and became intimately acquainted. His experience was of essential service to me at that time, as his legal learning and experience have aided me on many occasions since.

As our lives advanced, we became separated in political opinions, and were repeatedly the candidates of the rival parties for the same offices. I was sometimes employed in cases in the courts with him, but more frequently, on the opposing side: and by speech and writing we have had some contests, arousing fully whatever of energy and ability we possessed. Yet, so far as I know, neither in the political field, nor in the courts, have our differences ever wrought any, except merely the temporary estrangement of an hour. I am therefore but doing for him to-day, what I am sure he would have done for me if I had died and he had lived. Alas, the little that I can do—the little that I can reproduce from his ardent and laborious career, so conspicuous in this community for more than forty years!

To understand the professional and personal character of Mr. Sumner, it is necessary, I think, to recall the memory of the members of the Bar of this County, at the time of his entrance into this arena. He came to Great-Barrington to practice law, and he found the professional field there and throughout the County fully occupied. John Whiting and James B. Hyde, at Great-Barrington; Robert F. Barnard, Edward F. Ensign and Parker L. Hall, at Sheffield; Benjamin Sheldon, at New Marlborough; Thomas Twining, at Sandisfield; Lester Filley, at Otis; William Porter, at Lee; Henry W. Dwight, Samuel Jones and Horatio Byington, at Stockbridge; Robbins Kellogg, at West Stockbridge; Henry W. Bishop and George J. Tucker, at Lenox; Henry Hubbard, Calvin Martin, Luther Washburn, Matthias R. Lanckton and Thomas A. Gold, at Pittsfield; Henry Marsh, at Dalton;

Thomas Allen, at Hinsdale; George N. Briggs and Calvin Hubbell, at Lanesborough; Thomas Robinson, Nathan Putnam and Edmund B. Penniman, at Adams; Daniel Noble and Daniel N. Dewey, at Williamstown, were all in legal practice at that time; and I have omitted the names of some who have passed into other avocations, or were then just entering the profession. These gentlemen were in the full possession of the honors and emoluments of the profession in this County, and they had no idea of relinquishing them, except to those who were able to come and take them. Lawyers of eminence also from the river Counties, such as Isaac C. Bates, Charles A. Dewey, and Daniel Wells; and from the adjoining counties in New York, such as Elisha Williams and Ambrose L. Jordan, came sometimes into profitable cases in this County.

Of the members of our Bar at that time, Col. HENRY W. DWIGHT was the leading advocate, a gentleman of great ability at the bar, as in other departments; of most successful management with juries, a man of uncommon eloquence and address; the late Governor BRIGGS, younger, but dividing the honors with Col. Dwight, and with his cotemporary in age, Judge BISHOP, and with Mr. HUBBARD, whose efforts at times seemed quite as successful as any; and with Mr. BYINGTON, afterwards Judge, and Mr. PORTER, not to mention others perhaps equally prominent and successful. Our deceased friend saw the destiny which he was to work out, and its difficulties. He knew that he must proceed without the advantages of a collegiate education. He was not one of the kind who underrate those advantages, nor by any means was he one of the kind who consider the defects of early training to be without a remedy. The prime of life was before him, and he knew it was sufficient for his purposes; and he seemed to know just as well that indomitable will and industry would be required to enable him to secure the share which he wanted—which was the lion's share—in the legal business and popular consideration of the community. His clear perception of the difficulties to be overcome, and his inflexible determination to overcome them, gave the tone and character to his professional life, and secured for him a great professional success. My friend here present, one of the Justices of the Supreme Court (Judge Colt), I think will agree with me when I say, that no member of this Bar, or any other, who met Mr. SUMNER in opposition, could fail to perceive that his case required his closest attention and his best resources.

The delicate and frequently dangerous duty of cross-examination of witnesses was a power in his hands, and usually exercised with marked effect; but I suppose his closing arguments to the jury exhibited Mr. Sumner as a man and as a lawyer, and as a forensic speaker, in the most favorable light. In the preparation and trial of the case, previous to the commencement of his argument, he had thoroughly and unreservedly identified himself with his client and his interests, and had attacked his opponent's case, wherever he could find an assailable point of any kind, preferring to carry the battle, if possible, into the enemy's country. But, when he rose to his argument, he commenced usually with a clear and candid statement of the case and its surroundings; then developed his theory in regard to it, and supported that theory with a combination of cogent reasonings, sparkling wit, and felicity of personal allusion to the parties, witnesses and counsel in the case, which left a favorable, and often powerful impression, upon the jury and the audience.

There was no doubt of his moral integrity under all circumstances, and to those who knew him well, there was as little doubt of the integrity of his intellect. He reasoned correctly from the premises which he assumed. Usually if we admitted his premises we gave him the case, and therefore we directed our opposing strength against the premises which he had seen fit to assume. After questions of law were prepared by reports, or exceptions for the legal Bench, he gave them full examination with the aid of all the books within his reach, and it was after such examination that I have admired his

generally correct anticipations of the final decision of the Court. He was then able, as I thought, to lay off the lawyer and put on the judge, and I was not surprised to find in his brief judicial experience, near the close of his life, he evinced admirable qualities in settling questions both of law and of fact.

Mr. SUMNER was always industrious. He filled up all his leisure time. While attending the Legislature, and the Constitutional Convention of 1853, I observed that his mind was constantly active. He remembered history and biography with accuracy, and he read and appreciated poetry, with a taste which became highly cultivated. He was fond of genealogical researches, and remembered their facts with wonderful accuracy.

Whenever it was announced that he was to deliver an address, upon any public occasion, a full and attentive audience was insured. I well recollect his address before the Berkshire Agricultural Society, full of noble sentiments and eloquent passages. Especially do I remember his address, a few years since, before the Berkshire Bible Society. It was a model speech, and certainly left no doubt of his assured faith in evangelical religion.

But, brethren of the Bar, what need of more words? He has left us, and the few remaining men of his generation are soon to leave you. Nearly all those whose names I have recounted are gone. With them have gone the Judges of those Courts, upon whom we used to look as pillars which were never to decay. With them has gone CHARLES SEDGWICK, the all accomplished Clerk of these Courts—whose mind was as clear as his heart was kind—and whose words and letters remain to us.

In response to the request to allow the resolutions to be placed on record, His Honor, Judge Devens, briefly expressed his concurrence in and approval of the ceremony of manifesting the esteem of the Bar for one who had so long filled a large space in the courts and practice in the County. Twenty years ago he had quite intimately known the deceased, who was then District Attorney for the District comprising the four western counties. He knew him as an able advocate, a wise counsellor, and an industrious, honest, courageous member of the profession. His acquaintance and knowledge of Mr. Sumner were such that he knew him to be worthy the eulogies of his brethren, and in respect to the deceased he would adjourn the court.

Judge Colt, Rev. Dr. Todd, and other prominent citizens and professional gentlemen from all parts of the county, were present, and there were other speeches and eulogies ready for delivery, but the adjournment came while the lawyers were modestly waiting, one for another, to pay their respects, and many kindly and good words were left unsaid.

BANQUET OF THE BERKSHIRE BAR.

CORRESPONDENCE.

PITTSFIELD, December 5th, 1870.

BRO. SUMNER:

At the close of the late Court, several members of the bar met and had a very pleasant social meeting. We then resolved to invite a meeting of the Bar, and to have a Bar Dinner at the American House on the 28th inst., and with one accord it was agreed that you should be solicited to preside over the festivities. Your long standing and eminent position at our Bar, induced us with hearty unanimity to solicit your attendance as the pre siding officer of the meeting. There is no reason why we may not have a profitable time, and one that may stimulate us all to emulate and sustain the good reputation which the profession in this County has at all times heretofore sustained. We hope you will favor us with your presence. Enclosed please find a circular which has been prepared and forwarded to the members throughout the County. We address you as a committee of the late meeting, specially authorized. Hoping you will find it convenient to attend, we remain yours, &c.,

MARSHALL WILCOX,
S. W. BOWERMAN.

GREAT-BARRINGTON, Dec. 10th, 1870.

Hon. Messrs. Wilcox and Bowerman, Committee of the Berkshire Bar:

MY BROTHERS:—The happy thought of having a social gathering of the Bar of this County, and an appropriate festival, as suggested in your kind letter of invitation to me, is exceedingly gratifying, and if I can in any way aid, I shall most cheerfully do so. As well the resident members of the Bar, as also those who have gone out from us, and reside elsewhere, I should hope might be solicited and induced—with other distinguished guests—to attend. In this connection I might recite many honorable names, but will

mention one—WILLIAM C. BRYANT. He practiced at our bar, I think, from 1816 to 1825, with distinction and success, and then retired from legal practice, and removed from Massachusetts to occupy his present field of renown. So long as "Monument Mountain" stands, or the "Green River" flows along its beautiful banks, his name in Berkshire will be remembered and honored. Of those who have practiced at our bar, he is, I am quite sure, the eldest survivor. His presence at our proposed meeting is certainly greatly desirable. Aside from those who are, or have been members of our bar, are many who having here finished their preparatory legal studies, left for other sections of our country and have risen to be the pride and ornament of our profession abroad at the Bar, and many of them upon the Judicial seat. Their presence with us would be highly gratifying. And I hope most earnestly, that all the brethren now of our county, will by no means fail of attendance. Collectively speaking, it may well be said of the members of the Berkshire Bar, they need not be afraid or ashamed to have their fellow-citizens look upon them, whether at the bar or the banquet, for they have never wronged their noble profession.

With sentiments of great respect,

Very truly yours,

I. SUMNER.

BANQUET OF THE BERKSHIRE BAR.

The following account of the Banquet of the Berkshire Bar, referred to in the foregoing correspondence, which took place December 27th, 1870, and was the occasion of the last meeting of Judge Sumner with his professional brethren, is taken from the Berkshire Courier of January 11th, 1871:

"The meeting and festival of the Berkshire Bar, as arranged, took place last week Monday, at the American House, Pittsfield. Before dinner—which was at 5 P. M.,—most of the members of the bar convened and formed an association, one object of which is an annual meeting to be held on the last Wednesday of December. The officers of the association are Judge Sumner of Great Barrington, President; H. J. Bliss, Esq. of Adams, Vice President; and James M. Barker, Esq., of Pittsfield, Secretary. About sixty were at this dinnner, including invited guests, amongst whom were Rev. Doctors Todd and Strong of Pittsfield; Hon. W. G. Bates and District Attorney Gillett, of Westfield; Doctor Sabin of Williamstown; F. Chamberlin, Esq., of Hartford, and others. The tables were spread with great elegance, and the provision was most sumptuous—nothing seemed to be omitted. The feast at the table being over, the intellectual feast began. Several letters were read from gentlemen unable to give their personal attendance. Judge Sumner made the opening speech. His topic was 'The founders of the Berkshire Bar.' He presented Berkshire as being before 1761, a part of the county of 'Old Hampshire,'—a fact we should ever be proud to hold in remembrance. The Hampshire Bar had existence certainly as soon as 1686. Much

irregularity in legal practice in the early days prevailed. People then had crude ideas as to the legal profession or judicial proceedings. Judges, in fact were appointed, not because they were learned in the law, but—so it would seem—because they were NOT learned. Legal learning, instead of being sought was condemned. It almost appeared as though the purpose was to carry suits not in compliance with law, but against it. This state of things continued till past the close of the first quarter of the last century—a new scene was then to open. We are aware that in the formation of institutions from household to kingdom, certain idiosyncracies, capacities, instincts are most surely created, which continue in perhaps endless perpetuity. Hence peculiar family traits are exhibited through successive generations. The traveller of to-day who visits, for instance Germany, hears the same grand old mother tongue which Luther spoke, meets with the same love of poetry and song, and all learning which distinguished that land ages ago. The similar strains of the bag-pipe—the pibroch or war-song—which roused the clansmen of Roderick Dhu, fall yet in grateful cadence upon the Scottish ear. Men pass away, but their successors retain the identity of things as left to them. So in the founding of an institution or association like a law bar; the properties appertaining to its origin may last long after its founders are gone, for their place may be filled and well filled by a long line of successors. Can we not be permitted to say such is the fact in regard to the Berkshire Bar?

Who, then, were the founders of this bar? More than one hundred years ago, before our county was formed, a reform of old Hampshire bar occurred, and therefrom as a consequence this bar originated. Phineas Lyman and two of his pupils, viz.: John Worthington and Joseph Hawley were the reformers. Lyman began practice as early as 1743. He was a lawyer of learning and ability, and acquired extensive practice. Worthington was of Springfield, born in 1719, graduated at Yale in 1740, and commenced practice in Springfield in 1744. He was a splendid man, of eminent learning and a finished advocate. By the royal governor of our Massachusetts province, in 1769, the office of Attorney General was tendered to him, but he did not accept. He died in 1800. Hawley was born in Northampton in 1724, graduated at Yale in 1742, and began the practice of law in his native town. He was an able lawyer in all respects, a most worthy man and a distinguished patriot. He was the compeer of the Adamses and Hancock. Judge S. read extracts from a letter of his to John Adams, then in the Continental Congress, written in the fall of 1774, replete with ardent patriotic sentiments. This letter Mr. Adams, on its reception, read to Patrick Henry—it roused him to exclaim with great emphasis: 'I'M OF THAT MAN'S MIND!' Henry's celebrated speech, concluding with 'Give me liberty or give me death,' was made the Spring after. Who can say—said Judge Sumner—but that the inspiring eloquence of that speech may in a measure, at least, have been caused by the inspiring sentiments in Hawley's letter? In all important trials, Worthington and Hawley were employed. Their great learning, probity and skill taught their fellow-citizens new lessons in regard to legal practice, and the legal profession. Reform was the result. It was a happy memorial of these two

men, that old Hampshire caused to be named after them, two of her towns—Hawley and Worthington.

This part of Hampshire—our Berkshire—was then being peopled, and two lawyers of the Hampshire bar, John Ashley and John Huggins, both men of probity, learning and extensive practice, cotemporaries of Worthington and Hawley, settled in Sheffield. Ashley graduated at Yale in 1730, was admitted to the bar in 1732, and died in 1803, at the age of 93. He was largely interested in lands of the lower Housatonic proprietary. They had not the commanding influence at the bar as had Worthington and Hawley, but they were worthy coadjutors with them. They deserve to be named with them as reformers of the Hampshire, and founders of the Berkshire Bar. Our record of Huggins is scanty; we know he was in practice as early as 1743, was skillful, educated and of good repute. The only other lawyer in Berkshire, in 1761, was Mark Hopkins of Great-Barrington, of whose talents and patriotism Judge S. spoke at some length. Pre-eminently did he deserve to be accredited as one of the founders of our bar. He probably read law under Worthington; he was a kinsman of Mrs. W. He advanced in lucrative practice, and into the great confidence and esteem of the community. Withal he was a patriot of the first rank. When the revolution opened—opening as it did in gloom—he laid down his pen, girded on his sword, left the bar and repaired to the field. His position was that of Colonel. He went to White Plains, sickened, and in October 1776, two days before the battle, died. He was the grandfather of the distinguished President, and one of the Professors of Williams College.

Judge S. also alluded to Judge Sedgwick, who studied law under Mark Hopkins, and continued his remarks at length, the foregoing being but an imperfect sketch. Capital speeches were made by Lieutenant-Governor Tucker, Judge Colt, Congressman Dawes, Hon. W. G. Bates, District Attorney Gillette, Henry W. Taft, Rev. Drs. Todd and Strong, Hons. H. L. Sabin and R. Goodman, and others, and a fine poem was delivered by F. O. Sayles, Esq. The proceedings terminated at a late hour. We append the letter of W. C. Bryant, written in answer to an invitation to be present:

"NEW YORK, December 14th, 1870.

"DEAR SIR:—I thank the members of the Berkshire Bar for their kind invitation to be present at their social meeting and dinner on the 28th inst. My nine years of practice at that bar were a useful mental discipline to me, however imperfectly turned to account, and my residence in your beautiful county was a most fortunate event of my life. It would give me pleasure to meet with those who have taken the place of the generation of lawyers to which I belonged, but several engagements require me to remain here and content myself with wishing you all a meeting of which you will long retain a pleasant memory.

"I am sir, very truly and respectfully yours,

"W. C. BRYANT.

"JAMES M. BARKER, Esq., Secretary, &c., &c."

DEDICATION SERVICES.

From the Pittsfield Sun, July 5th, 1871.

DEDICATION OF THE JULIA SUMNER MEMORIAL HALL.

Our readers are aware that at the time of his death, Judge INCREASE SUMNER had nearly completed a handsome four-story brick building in the central block of the village of Great-Barrington, the upper portion of which was designed for a Musical Hall. On his dying bed he said to his eldest son, Samuel—the only child present when the venerable man expired—that the Hall was to be MEMORIAL; to be called "THE JULIA SUMNER HALL," directing that it be dedicated with religious ceremonies. In fulfillment of Judge Sumner's will on the subject, the dedication appointment for the evening of June 28th (last Wednesday evening), was made.

THE HALL

is an elegant assembly room, capable of comfortably seating five hundred persons. The provision for ventilation and heating is abundant, and of the most approved modern contrivance. The experience of the evening demonstrated that the acoustic properties of the place are perfect—both audience and speakers testifying to this main point of excellence in the Hall. Notwithstanding the heat of the evening—which was excessive—the atmosphere was not less fresh and cool in than out of the Hall. The gas lights were of such number and character, and so admirably arranged, that the finest print could be equally well read in any seat. The entrance from the ground is by a flight of stairs leading up the centre of the building; the immediate entrance being by steps from the west end of the second story passage-way, which lead to a mid-way platform, from which, on either hand, the Hall is reached by a half-story flight. At the east end of the Hall, is a platform about three feet high and twelve feet square. On this occasion, immediately in the rear and about eight feet above the platform was suspended a beautiful portrait of Judge SUMNER, painted by the celebrated artist, Mr. Curtis of Bridgeport, Conn. This portrait is an excellent likeness of Judge SUMNER, as he appeared ten

years ago—and as we gazed upon the painting, in which the features of the wonderfully handsome old man are depicted with rare artistic skill, we could not do otherwise than recall many a court scene in which *he* bore the prominent part, and in which he manifested a power of logic and of eloquence such as is rarely exhibited in any tribunal of justice. And, furthermore, it occurred to us, that our bar would only be paying a proper testimonial to the memory of such a lawyer, if they procured a copy of this painting and placed it in the new Court House. Beneath the portrait of Judge SUMNER—was a large "touched" photograph of the beloved daughter, "JULIA," after whom the Hall is named.

THE AUDIENCE, AND THE SPEAKERS.

A brief paragraph in the Courier of Wednesday, of the previous week, was the only advertisement we saw of the Memorial Exercises that were to take place; and that simply announced the purpose, and extended a general invitation. It seemed to us that the notice was insufficient, as it certainly was very modest. It was announced that the exercises would commence precisely at 8 o'clock; and as we had been incidentally assured by many persons that there would be "plenty of room" we made no haste "to be there"—arriving at the street door at a quarter to 7. We found the passage-way completely packed with persons anxious to obtain an entrance to the Hall; ushers at the mid stairway landing occasionally shouting down the assurance that they were trying to make as much standing room as possible. We were about taking our departure in a spirit of great disappointment, when the agent in charge of the building, Mr. F. T. Whiting, recognized and seized us, and informed us that an eligible seat had been reserved on our account. We were duly installed in our "reserve," where we had twenty minutes in which to note some of the items already recorded, before the exercises commenced. We should note also that the platform had been temporarily extended on the right of the permanent stage, so as to furnish room for a piano and a large cabinet organ. As we have indicated, the Hall was crowded to excess, it being estimated by the ushers that there were about six hundred persons in the audience—several hundred coming to the street entrance and being obliged to retire, for lack of even standing accommodations. (We have been informed that it is in contemplation to build a horse-shoe gallery at the western end of the Hall—thus affording seats for 150 more persons.) Shortly after we entered the Hall, the noise attendant upon taking seats subsided—as all the seats were occupied, and standing room was not obtainable. The audience silently gazed upon the portraits of the once familiar faces—the father and daughter—the shadows of whose remarkably pleasing countenances looked down upon us (if we may so write) from the centre line of the eastern wall. Precisely at 8 o'clock there was a buzz of announcement: the widow and the three sons of the deceased Judge entered the Hall. Mrs. Sumner is the second wife of the Judge, and the step-mother of "the boys." She took a seat in the third row of settees from the platform, while "the boys"—as we heard every one around us call them—proceeded on and took their places on the platform: Samuel B., of Bridgeport, and Charles A. and

Albert I., of San Francisco, California. The Rev. Evarts Scudder, Congregational, the Rev. Dr. Olmstead, Episcopal, and the Rev. Mr. Akerly, the Methodist clergyman of the town, were then invited to occupy assigned places on the stage. At ten minutes past eight the exercises began with an original Voluntary by Prof. Albert I. Sumner. But before we comment upon the exercises, we will give the programme, as follows:

ORDER OF EXERCISES.

1. Voluntary on the Organ—original. Albert I. Sumner.
2. Prayer, by Rev. Evarts Scudder.
3. Requiem—Piano—original. Albert I. Sumner.
4. Introductory remarks. Samuel B. Sumner.
5. Hymn—original. Samuel B. Sumner.
6. Memorial Address. Charles A. Sumner.
7. "Separation"—Piano—original. Albert I. Sumner.
8. Doxology.

The musician of the family, Albert I., has already obtained considerable celebrity as a composer of Organ and Piano Music; and both as a composer and performer we had direct and most pleasing evidence of his ability during the evening. His "*Voluntary*" on the Organ was a fit prelude to the services which were to follow; but it was left for his *Requiem* to develop his positive genius for appropriate musical composition.

The prayer by Rev. Evarts Scudder was a choicely-worded appeal for the Divine blessing upon the family of the deceased, upon the community in which they were again assembled from afar, and upon the meetings that hereafter may be held in the structure they were to dedicate.

The introductory remarks by Samuel B. Sumner were apt and impressive. He briefly recounted the circumstances connected with the planning and erection of the building, and in most affecting tones related the dying father's directions to his "dear boys," as he called them, "concerning the dedication of the Hall." In obedience to the father's express mandate, and in conformity with the inclinations of the sons, no entertainment was to be permitted in the building, at which a young lady of refined and cultivated tastes, like Julia Sumner, might not properly attend—at which *she* might not have laudably desired to be present. Since one of the sons had last taken his departure for his distant home, in California, sister and father had passed away; and it was thought eminently proper that he should give the formal, extended expression to the suggestions and sympathies that pertained to the occasion.

The following Hymn was then sung;—almost the entire audience, apparently, participating in the singing:

HYMN—BY SAMUEL B. SUMNER. *Air—Greenville.*

Now let gentle memory lead us,
  While this hour our thoughts recall
Forms of loved ones who precede us
  Whither we are hastening all;
Weak we know our best endeavor,
  'Gainst the Lethean wave to strive,
Still with human fondness ever,
  Would we keep our dead alive.

His behest this hour obeying,
  Who for sake of memory dear,
Crowned an earnest life, essaying
  These memorial walls to rear;
Thus we gather, while we listen
  To familiar tones of yore,
And while eyes in sadness glisten,
  Here to glisten nevermore!

Side by side they now are sleeping,
  Sire and daughter, in the tomb;
Kindred from afar stand weeping,
  And all hearts are filled with gloom;
She in womanhood's first dawning,
  He of ripe three score and ten,
Both lie waiting that bright morning,
  When God's own shall wake again.

'Neath the flow'rets o'er them blooming—
  Summer's verdure, winter's snows—
Only Faith our souls illuming,
  We must leave them in repose.
So, wherever God shall call us,
  Wide world o'er, our lines to cast,
And whatever fate befall us,
  Death shall claim us all at last!

Father, sister, our sad pleasure,
  With fraternal, filial care,
This fair cenotaph to treasure,
  So its walls your names shall bear;
And when loved ones gone before us,
  Wave for us their welcome wands,
Each and all, may God restore us,
  To the "House not made with hands."

It is impossible for us to give even a satisfactory sketch of the Memorial Address, by Charles A. Sumner, which followed the singing of the Hymn. He commenced at a quarter to 9 o'clock, and concluded at 20 minutes to 11. It is sufficient compliment to the speaker, undoubtedly, to say that the attention paid was absorbing and almost breathless. The orator at first, by a few touches, carried his auditors back to the Barrington of forty-five years ago, and then introduced his father as the attorney successor of William Cullen Bryant, and the youthful colleague of the renowned Gen. Whiting. He gave what he termed "glimpses" of the biography and characteristics of the father, illustrating some remarkable peculiarities of the man, with well-authenticated anecdotes—names and localities being given in every instance. Then referring to the death-bed directions concerning the dedication of the Hall, the orator passed on to a very entertaining sketch of the life and character of JULIA E. SUMNER—the daughter, of great gifts and accomplishments, whose brilliant "promise," acknowledged by all acquaintances, was, alas! unfulfilled, because the enemy, Death, prevailed when she was at the early age of 24 years. The speaker then briefly, but forcibly, presented what he considered the leading trait of both father and child, which was most beneficial in the community; and the points in their exam-

ple most worthy of imitation. At one period of his address, he dealt in some caustic illustrations concerning the "*smart* girls of the period"—(of which he averred Julia Sumner was not)—which provoked demonstrations of applause and merriment, despite the known seriousness and solemnity which belonged to the object of the meeting. The address contained many points of philosophical suggestion and reasoning, and it will unquestionably be read with profound interest, if it is published, on account of its personal and its general historical information, and its original deductions concerning character and influence. When the orator retired, the audience could not be restrained from indulging in long continued applause.

At the close of the address, Mr. Samuel B. Sumner thanked the audience for their attendance and attention; Prof. Albert I. Sumner played his original and exquisite composition, "SEPARATION," on the Piano: the Doxology was sung, and the audience dismissed with the Benediction, pronounced by Rev. Dr. Olmstead.

We congratulate our neighbors upon the construction of such an elegant Hall in their midst, and upon its dedication in a form and by peculiar and eloquent services, which will long be among the cherished memories of citizens of Southern Berkshire.

MEMORIAL ADDRESS.

MEMORIAL ADDRESS

BY

CHARLES A. SUMNER,

OF SAN FRANCISCO, CAL.

Forty-five years ago the village of Great-Barrington contained a population of about 400 souls. The old-fashioned, gable roofed houses that stood on either side of the one broad shaded street leading from the bend of the Housatonic, at the southern edge of what is now called Water street to the foot of Mount Peter and onward, all possessed an historic interest; and in the bar-room of the tavern that was situated nearly opposite to this place of assembly, curious stories were nightly told in regard to the British troopers' occupancy of those humble but spacious dwellings. These tales have become traditions—if not regarded as legendary—and only three of the primitive mansions, and they somewhat modernized, remain to speak to us of the verity of those now rarely-repeated records of Revolutionary days.

Forty-five years ago John Quincy Adams was President of the United States, and Levi Lincoln Governor of the Commonwealth of Massachusetts. Forty-five years ago General Whiting, an attorney and counsellor, distinguished not only throughout the County, but the Commonwealth, had his office at the junction of Main and Castle streets, and with clients attending from all portions of the State west of the Connecticut, was absorbed in a large and very profita-

ble practice. William Cullen Bryant was also a lawyer, resident in this village forty-five years ago. Unhappily, disgusted with the verdict against his client in an important suit, he, at the date to which we refer, determined to remove from this place to New York City—there to engage in the more congenial, and as it proved to him, far more lucrative business of superintending the publication of a daily journal. At that date a young man of twenty-four years of age, who had run a "collegiate course of three months"—as he was wont to term it—"in a log school house in Bethlehem;" who had educated himself from that graduation so that he became competent to teach in the country; who with his $8 per month earnings on the farm and in the school-room, aided a little by the contributions and much by the cheering encouragement and counsel of an elder brother, had articled himself to Lester Filley, Esq., of Otis, and devoted five years to the study of the legal standards in that gentleman's library—a few months in each year still being occupied with teaching service in the rural districts,—at that date this young man, having learned of the vacancy about to be created by the departure of Mr. Bryant, and wooed to the selection, it may be, by attractions which were not of a professional character, with only a pine-tree shilling in his pocket, crossed the mountain, and came down into this village, and commenced the practice of law in Great-Barrington. There are, I presume, some persons present who can look back through all this vista of years with uninterrupted vision, and bear testimony, step by step, as the perfect chronicler recites the prominent incidents in the life we are to briefly contemplate to-night. Here and there, to-night, it is our privilege, in response to an undoubted desire on your part and with reverent affection for ourselves, to sketch a scene and dwell upon a characteristic.

All the earliest home cotemporaries of our father tell us that his advent created something of an excitement in the society of our village; and the young man was thoroughly inquired about and looked over by the good people who formed the acknowledged aristocracy

of the town. And immediately after his settlement, his abilities, his peculiarities, and the future of which he gave promise, were topics for general gossip. And by and by it became subject of friendly remark that he manifested a decided partiality for an afternoon and twilight walk to the old red house, and a rest under the famous horse chestnut tree that stood in the yard beside the old red house situated on what is now the Dr. Collins' homestead,—then occupied by the widow and children of Dr. Samuel Barstow.

But I do not intend to trespass upon your patience with a biographical record; which would be imperfect, and to many of you suggestive of more interesting points than those presented. Enough to throw your minds back to the year 1825; and more or less, as we are individually able, to realize the time that has passed, the length and breadth of the years that compose the citizenship and professional career in Great-Barrington of Increase Sumner.

It is a long while ago, my friends. The population of the United States was then less than ten millions; there was not a mile of railroad in the country, and it was then more than ten years prior to the invention of the telegraph. And after ten years' absence your children come back to you hardly recognizable, with their added weight of days marked upon their countenances and indicated in their altered voices and sobered mien.

If in this period of time a man that has lived and served in the same village and occupied a prominent position by his works, is not thoroughly understood by his intelligent neighbors, there must be singularities about him which defy the power of human scrutiny. In the crowded city the public servant may be imperfectly known to his most intimate associates; for the opportunities to closely observe even a character that is absolutely free in its development are oftentimes wanting in such a place. There men "touch and go" and leave no certain and full picture on the memory of the nearest acquaintance. In most respects, my friends, the majority of persons before me must have understood the man of whom I am speaking as completely as it is possible for those outside of his fami-

ly-circle to have comprehended his nature and motives. Therefore, what may be properly said to-night in review of his life will meet with your concurrence from an actual recollection, and be carried out in your minds with illustrations that are all your own. And here the words may be spoken which are fit and proper only in such a presence and on such an occasion; here these words will not render us amenable to any charge or suspicion of egotism or foolish pride. Let us proceed.

Much of that I am about to say is necessarily and gratefully drawn from the general testimony which many of you have incidentally given long ago, concerning the strength and struggles and triumphs of the man.

There was a quality and habit common to the American youth of those days, of which more is now sung but less practically known. A PERSEVERING INDUSTRY distinguished the life we commemorate, in a remarkable degree. His ambition, which was avowed and ardent, had no fanciful or hap-hazard phases. Confident in his abilities without conceit, he was yet ever most reliant upon the valor and virtue of hard work. When Stephen Cone gave him his first important case he sat down and investigated every point with such an amount of patient toil, and brought forth an argument which evinced such great labor as well as good judgment, that his earliest, prominent patron had to make it known to all his friends that his suit had been gained by a young attorney who omitted nothing that could have the least weight in the trial, but pressed every fact with discriminating zeal;—who obtained not only the verdict of the jury for his client but evoked the unusual and inadvertent compliment of the judge that instructed the panel. The industry that may be said to have been relentless in its character was exhibited in this man's career; and he was entitled to encourage his fellow-men—as he often did—with admonitions and appeals in behalf of the dignity of labor, as comparatively few men now are authorized to exhort in this indeed busy but far less earnest-work-

ing world of ours. For his profession his preparation was strong, and the fundamental requisite of a disposition and determination for labor was ever-present with the man.

But mere diligence can achieve but little at the best; the measure of success that is notable in the profession named must depend upon the rarer gifts of nature. There may be a prominence in political life obtained through adventitious circumstances or by arts that are mean and discreditable; but the solid respect of the world must be acquired by faithful and unremitting labor in the legal profession, by the man of high mental endowments. The habit of industry may be cultivated to a great extent, and perhaps may be said to be planted in natures originally predisposed to utter slothfulness. But, *power of mental concentration* is a faculty of real genius. Not merely to work all the minutes of an hour and all the working hours of a day, but to labor straight towards an object and for the accomplishment of the purpose first had in view,—this is the cunning of business. There are those who severely bend every energy they have under a resolution to perform certain deeds and secure certain results; and yet they never have a chance to celebrate a considerable victory, because despite their most honest efforts they vary from the true path of labor, they push unwittingly into by-ways, they waste their toil; so that their strength of application is but vanity and their end disappointment. These persons must judiciously confine their aspirations to smaller services, or they will only have constant cause to mourn fruitless periods of well-meant and exhausting struggle.

There is an instinct in zest, in relish, which lightens or obliterates the sense of toil: denoting adequate capacity for given duties and predicting success in them. In itself, by itself, drudgery never began, conducted and completed a great undertaking, or wrought out a creditable biography. There are simple and most familiar acknowledgments of this truth in political matters, in every-day life. And we are prepared to say in all candor, and with your known approval, that conjoined with an iron will for duty there was in

Increase Sumner a love for his calling that made his study his delight, and prophesied his days of happy diligence, abounding with professional victories.

In his constitution and character there was among other fundamental elements the sense and faculty of HUMOR; humor in appreciation and expression. As an appropriate part of the man, and as a great possession with him personally, this element was fundamental. A man without humor may grow rich on his shrewdly obtained compound interest; he may give what are termed substantial evidences of his "thrifty manhood;" but he is only just within the pale of humanity, genuine humanity,—that is all.

I have almost forgotten how Seekonk and Alford and Muddy Brook appeared when I last rode through their gates, and I shall probably never see them again; but now and at any time hereafter you and I can people those and many adjacent places with the old inhabitants of twenty and thirty years ago, because we both saw them painted in words of comedy, in an address to the justice here or the jury at the shire town, by Increase Sumner, Attorney and Counsellor at Law. We may see these men again and again, and try to believe that they have grown to be different, because older men; but there the original painting remains. By a sentence or clause uttered in perfect mimicry, or by one singular, all-comprehensive, metaphoric word, enhanced it may be with a gesture, portraits were given by this consummate artist,—frescoed on the gallery walls of every listener's memory,—there to abide forever.

The GOOD TASTE that was a leading feature in his unnumbered arguments, his scores of lectures and his conversation was in great part the result of a special, assiduous cultivation. An innate thirst for the higher literature and its gratification,—it may be insensibly, but as the result of his reading—produced a marked and happy effect upon the style of his discourses, and made his speech a constantly improving exhibition of the neatest, most precise, most entertaining forms of rhetoric. Much has been said of late years by

leading professors in law-schools, and prominent practitioners at the bar, about the alleged inevitable injuries to the powers for legal debate consequent upon general "indulgence" in the libraries of belles-lettres. The character and life on which we meditate contradict this warning,—which I presume some good old dry-as-dust originated for Authority, and many young law tutors have repeated out of pure respect to precedent. Here was a young man whose natural inclination to the studies deprecated was promoted by the desire to supply what he presumed, (and rightly,) were marked deficiencies in his regular discipline for his calling; and whose addresses before judges and jurors, as well as promiscuous audiences, give abounding evidences of the great value to him of his late but extensive roamings in the fields of exalted, miscellaneous literature. A brief, extemporaneous obituary address delivered by him some ten years ago was recently shown to one of the most distinguished journalists in the country, with the request that he should give his opinion, from the rhetoric, as to its probable author. And without hesitation, after the reading, the competent critic whose judgment was invoked, declared that although there were peculiarities about the address which induced him to believe that it was by an author with whom he was not acquainted, still he could imagine that the "elegant text" was the composition of Edward Everett.

ENTHUSIASM was a prime, distinguishing element in the character of the man. Its importance in his profession is perhaps no greater than in many others that may be named, but in no other is it more decisive in what are known as exigencies of practice. Even a physician needs enthusiasm; and the preacher requires it absolutely, if he is to convert many. But without it, the lawyer is never a thoroughly successful advocate before a jury. Indeed, every true man is an enthusiast;—and the woman without enthusiasm does not rightfully belong to her sex. A man may be industrious, methodical, with a basis of good judgment, with a fountain of caustic wit, with a gift of language, schooled and learned; but if he does not possess the rich quality of enthusiasm, he is lamentably

deficient. A man without enthusiasm may excite admiration for himself but not for his cause; he may himself commiserate, but he cannot beget in others emotions of personal sympathy. His statement of facts may be marvellously clear and skillful, and his logical deductions may be as sharp and exact as the circumstances of the case will allow; and he may riddle the opposing evidence with spears of quick analysis, contrast, and personal invective. The jury may pity the unfortunate client or witness against whom he turns the cold and bitter stream of satire with merciless art. Here comes the less able but enthusiastic advocate, who takes inspiration from the fears and sufferings and desperate situation of his poor client, whom he believes to be the party wronged or unjustly accused; and he puts his nervous fellowship into that jury, he inocculates them with his hot heart's blood; and presently there are twelve men before him, ready and anxious to declare for the rescue of the person whose miseries are portrayed, and if possible to outrun their mesmerizing captain in the service of executing sudden justice upon the complainant who is now arraigned before the bar of justice! The complaisant attorney is heard and seen with interest and even with awe, as he deals out his pungent blows against the parties whom he would punish by the verdict. The enthusiastic advocate is not a third person at all, but transmits all his opinions, convictions, hopes and resolves into the gaping triers before him; until twelve men are tormented before the appointed time in which to announce the decision of acquittal.—Join to industry and sound discretion, and humor, and a correct sense of the proprieties, the glow of enthusiasm in the lawyer and advocate; and while he will gain many suits that are of doubtful value, before an incorrupt tribunal,—in a perfectly good cause, he is glorious and irresistible! Such a lawyer and advocate was Increase Sumner.

You will pardon me for saying in this connection that the enthusiastic man is always a prominent target for the envious, or the honestly-made assaults of the phlegmatic nature. "O! He is too fast!" "He is inconsiderate!" "He is devoid of philosophy!" "He

has no balance!" "He is a *fool!*" Worse yet: "He has no manners!" The non-enthusiast has a mountain from whence to criticise. See him! He never sings; he drawls: he never preaches; he prates: he never laughs; he grins: he never cries out; he sniffles: he never storms; he sulks: he may never positively offend anybody; he does disgust a few: if he rarely does anything that comes palpably under the category of grievous wrong, he does not often accomplish much of substantial good: and if he does rob widows and orphans you cannot detect him at the trade. Enthusiasm is Energy, Motion, Progress, Attainment;—it is Life;—it is Humanity!

The enthusiastic lawyer, whose thoughts are concentrated upon a case in which his feelings have become deeply interested, is rapidly walking from his house or his office to the court room where the issue is about to be tried. A good man in the Parish, one of the leading church officers, crosses up to his path directly, stops when in front of him and dogmatically exclaims: "It is pleasant weather!" The sun has already been shining six hours of the day, and there is not a babe in any household round-about that does not know that the weather is pleasant. The interruptedly-halted man—(not merely saluted)—replies in the affirmative, in a brusque and indignant tone, and sweeps past and on. The pious neighbor immediately relates the story of the very brief wayside interview, and then carries about a hand-basket of charity with which to sprinkle and cover the recollection of the surly sin. And eulogies will be written in which this offence on the edge of the highway shall be sadly and forgivingly commented upon by the speakers. A little common sense would explain what charity is unnecessarily summoned to excuse; and a little more common sense in an earlier day would have prevented the provocation which was rightly resented and rebuked.

There is a compensation for labor in the satisfaction of refreshment and rest that follows. The most enjoyable companionship is that of the man industrious in some legitimate calling, whom you

meet in an appointed or accidental interval of leisure. Then the social qualities, if they exist, are manifested with singular felicity. So it was with our father and friend. I need not recall many personal scenes; I can make a personal appeal. You remember how it was on such a day or such an evening, when by some unforseen circumstances you were thrown into his society, and made mutually dependent for temporary entertaining. Perhaps it was a new revelation to you of the man, although you had known him, as you believed, for many years before. How surprised you were to learn of his acquaintance with your ancestry: and of your later relations, such a treasury-house of anecdote! And then, of your own life you had lost, until he revived it, the happy recollection of a scene in which you figured conspicuously, and concerning which in some professional manner your companion had ascertained and once employed the facts. What a Town Chronicler! Absolutely free from the spirit of mere gossip, having no sort of delight in the stories which malice concocts or exaggerates and spreads, but with an unmitigated scorn and disgust for everything of that kind, he caught all the important items in the current news; and they were graven on his wonderful memory of steel. And in relating the anecdotes that possessed the shades or pith of humor you would see that he was saturated with the fun, and to his fingers' ends tickled in every nerve of his nature. O, how he would tell the story of some neighborhood disagreement: ending in an equity suit and rounding off with a trial and admonition in the church!

You might be informed for the first time in your life that your cousin George, on your father's side, married a Doratha Brown, whose mother was Elizabeth Henry,—and *she* was born on the old Kilburn farm. "Her brother, your cousin's wife's mother's brother, Ebenezer Henry, was a queer old fellow. He claimed a right of way for an irrigating and mill-race ditch across the upper edge of Hiram Pixley's farm,—having purchased from Pixley, and owning on both sides of the original farm. He undertook to commence digging the ditch. Pixley warned him off. Old man Henry sued

on his covenant for discretionary right-of-way. I brought suit for him. He got his authority: went on with his ditch. I told him to go and get Woodworth to make the survey; but he wouldn't,—he staked out and dug his own ditch. When he got through he found that the lower end of his ditch was higher than the upper; and the water took a notion that it wouldn't run up-hill. Everybody round was laughing at the old man. To make it worse Pixley had some fine flowing springs in the northeast corner of his land, and he run a furrow down from them, a distance of about ten rods, and brought the water into this ditch, and used it himself! Old man Henry couldn't stand that. So he undertook to fill up the ditch. Pixley warned him off from his premises. But the old man persisted. Then Pixley sued Henry for trespass. I brought the suit. Beat him. Got an injunction and damages. The Court held, as we claimed: that while Henry had a right to dig a ditch across the premises he had no right to fill one up! And he could not dig a new ditch for the time of his covenant for that purpose had lapsed. I guess the ditch is there to this day. It is a good ditch; if you only turn the water in at the right end. Yes, yes: old man Henry was a brother of your cousin George's wife's mother."

We shall proceed to higher qualities and considerations. Imagination and the Sense of the Sublime, were constantly manifested by the man; in his patronage, his study, his instructions, his reasonings. Among the earliest purchases, for his private miscellaneous library, were treatises upon the fine arts, and copies of the standard poets as they were then catalogued—the volumes now well-worn—all dated within the first years of his married life. And while he avoided, as he would any species of affectation and pedantry, that cheap habit—possessed and practiced so widely at the present day—of quoting a familiar paragraph from Shakspeare or Milton, whenever possible to assert or assume an application, he could and did in an unexpected, and therefore original mode, not unfrequently drive home the conviction of the truth of an argument or

theory with a most apt and charming verse or sentence from one of the masters in English classical literature. And woe unto the fluent adversary, who thinking he had all the knowledge and virtue of the text on his side, extracted an illustration from a chapter, or act, or epic, which, in itself or with the aid of adjacent or by the light of independent, neighboring phrases, of the same author, admitted of a shifting or reversing of the force that was thus brought to bear. The danger and disaster incident to such a careless dealing with the dramas of Shakespeare, or the books of Milton, or the stanzas of Bryant, was demonstrated on many a "well-fought field" at the Berkshire bar; and youthful lawyers became prudentially advised of the necessity for weighing and meditating on the whole of the play of King Lear, before they mouthed any of the crazy monarch's philosophy in their speech to the jury as counsel opposing the veteran graduate of the Bethlehem log school-house. For if the reading be faulty, the connection mistaken, the point subordinate to some large sentiment, which in its breadth of gravity weighed the rather to the other side, the response would come; and it were better that that quotation had not been born.

An extensive reading in general literature, and a right comprehension at all times of the real gist and conclusion of the author, was an important part of this man's character and available store.

In light literature, his range of acquaintance was wide and cotemporaneous. Pardon this personal statement: I never saw my father reading a novel. And yet I never heard the contents, the characters, of a work of fiction which had obtained creditable popularity, discussed in his presence, without receiving his judgment of the book, unquestionably founded upon a thorough understanding of its plot and dialogue. Walter Scott was a familiar favorite with him; and I remember to have heard him say that the world seemed to have darkened when he learned of the death of the wonderful "Wizard of the North."

In treating of the common law doctrines applicable to an important case, he once quoted from the prefatory portion of a novel by

G. P. R. James; and the eminent Judge who decided the case in his favor, repeated the "authority."

His love for painting and sculpture,—respecting which his untutored judgment was acknowledged to be excellent,—is perhaps as notorious as any characteristic of the man. And by essays and every practical expedient within his privilege, he sought to create and extend a similar love and appreciation, while as well by this as other modes constantly deepening his own. "In painting and in music,"—I have heard him say,—"God has certainly given us rich hints of some of the finest glories of the celestial world. By their aid I sometimes feel almost inclined to say that I could place a satisfactory existence for eternity."

And having regard to all that I have recently said, a passing direct mention, at least, must be made of the marvelous endowment of Memory. How often have you heard the Judge upon the bench turn from counsel disputing as to the respective accuracy of their notes of testimony, and ask Increase Sumner, if he chanced to be sitting by, what was his recollection of the language of the witness. And you remember with what entire reliance the answer was received both by the Court and the contending attorneys. And such was his recollection of precedent, and the consequent frequency of convenient reference to him by Judges sitting on the Supreme Bench, that Henry W. Bishop once remarked, that "Sumner had been earning a Judge's half-pay during the last quarter of a century." Of faces, localities, pictures and vocal harmonies his mental impressions were clear for a description in detail, even when the opportunity for seeing and hearing had been incidental and imperfect.

Need I say specially, in such an audience, that our father was a keen appreciator of the noblest rhetoric, both of prose and poetry. His elocution declared this to be a fact of his genius, with unimpeachable emphasis. You remember his readings of the Declaration of Independence, and the occasional odes that were prepared for our local celebrations, and his fervid and impressive oratory, when the announced speaker on any public occasion. The combi-

nation of humor and enthusiasm and sublimity rendered him remarkably sensitive to the sweet strains of poesy, and fully alive to the power and perfections of eloquence. If you have heard him read Walter Scott's "Song of Rebecca":—

"When Israel, of the Lord beloved,
Out from the land of bondage came,
Her father's God before her moved,
An awful cloud of smoke and flame.
By day, along the astonished lands
The cloudy pillar glided slow;
By night, Arabia's crimson sands
Returned the fiery column's glow;"—

Or if you have heard him read Burns' "Cotters' Saturday Night;" or Bryant's "Old Man's Funeral;" or Longfellow's "Village Blacksmith," then you have a red-letter hour from that entertainment which you will never forget.

But above all and beyond all, he was one of the few who are gifted for the reading of Holy Writ; one of those designed to reveal Scripture by Scripture—the only commentary that is plain and decided and beautiful: the commentary that alone will be when there are no sects on earth, and all shall see eye to eye,—in the millenium. O, delicious echoes of the far-off days! Wearied of the preaching and the praying, and even the singing in the church; more weary of the Sunday-school instruction, and most weary of the enforced perusal of the Sunday-school books, in which hideous wood-cuts represented the pitiless Calvinistic wrath of God to man; even when we least comprehended the significance of the verse, how rejoiced we were as he took up the old family Bible and commenced to intone the sacred text. Then we heard not the reading of the Scribes and Pharisees, but the voice of one having authority. Then we knew that the beatitudes were not platitudes. Then we heard Paul thundering on Mars hill. Then the most neglected vision of the seer of the isle of Patmos, in all its grandeur and glory, was spread out before us. He was an unsurpassed chanter of the songs of the sweet singer of Israel; and an interpreter of the Book of Job, by nature.

The Rev. Mr. Dale, an eloquent Methodist clergyman, who in the year 1866 preached at Virginia City, Nevada—and who at the time referred to was an entire stranger to me—on one winter's Sunday morning, in the year named, in the course of a sermon devoted to urging the laymen of the congregation to aid in the proselyting service of the parish, took occasion to state that he dated his conversion, so near as he was able to establish such a point in his life, at an hour when he heard—as by accident—a printed discourse by Dr. Melville of England, read in a remarkably clear and attractive manner by a lawyer, in an old stone, Episcopal church, in the village of Great-Barrington, Massachusetts.

Do we not now naturally arrive at the grand, culminating, crowning characteristic of the man?

O, brother! as we sat together in silence by the shores of yonder sounding sea, in that far-off border land of our Continent, smitten with the tidings of his death, how inexpressibly consoling, how changed the sorrow to mournful but undoubted, animating joy, as we read that one little sentence in the midst of the first testimonial of respect—seemingly considered so unnecessary in the community where he dwelt that it had almost not been said—extemporised by brethren of the bar in the Court over which he but recently presided: "His integrity was never questioned!" "His integrity was never questioned!" Not: "was always vindicated," or "ever maintained." "*Never questioned!*" In a profession, up the gradations of which he struggled from the lowest round in the ladder; where there is confessedly such a multitude of temptations to commit for temporary advantage's sake, and with slight chance of exposure, the smaller sins of a sharp practice—giving rise at least to a shade of distrust, and warrant by the whispered taunt of the foe,—in a profession where he necessarily provoked hundreds of not overscrupulous persons into keen and lasting enmity—forty-five years in that profession;—and he never boasting, and no man in his lifetime extolling his integrity: because it never occurred to any acquaintance to dream of suspecting the honesty of Increase Sumner.

And whoever doubted his sincerity of judgment? Put two ways before him, of right and of wrong, and who of his acquaintance does not know which one he would instantly, and as it were involuntarily, adopt and pursue?

My friends: I do not despise, I respect his religious connections. But I care little about the accidental machinery of his ecclesiastical experience. We have an Example. I have come up out of the deeps of that bereavement—from the anguish of the blow, from kneeling beside that old man's grave, where he sleeps, where there is no knowledge, or device, or labor, and into which I had always thought I should precede him,—I have come assured anew that the good shall be immortal, and the good alone. Tell me no more that the Universe, or any portion of it, has been or ever will be districted off for the perpetual jurisdiction of police courts, or the everlasting maintenance of county jails. I have seen a life which in respect to one point of heavenly fellowship, is by the plummet perfect:—as the commandment presumed it was possible to be. Faults there may have been abundant. But it requires a creed against the Scriptures to deny the sufficiency of an atonement plead to cover the frailty which belonged to such a man. Seek no more to file off the asperities of my individual humanity, with the raised letters of cast-iron articles of belief—newest brought from the pattern foundries of theology. He that doeth right, and resteth upon Him that was altogether the perfect man, shall live. And the abominations shall be cut off. And the intention is the exclusive centre of inquiry and judgment. I know I speak from the readings and conversations of the man who appointed these ceremonies. He recognized infirmities; he repented of errors; he rested in righteous faith and work. Hypocrisy everywhere and anywhere was the test and termination of his most active abhorrence. Shrive no souls for him either with the fragrance of the incense flung from within the chancel from golden censors, and rolled up against the face of the magnificent marble altar of the cathedral. Shrive no souls for him with the pungent aroma of the caraway-seed, that floods and per-

meates every country meeting-house in New England. No raiment or aroma, of human patching, would be accepted by him as the clothing of Christianity. A text of Scripture torn from its setting and poked into the crevice of a boulder, did not sanctify the rock for him as the corner-stone of the true church. Such men do not become near-sighted and cross-eyed from daily readings and re-readings of decalogue, and canons, and "land marks," for they behold, riding on the arch of the rainbow, the promised metropolis from Heaven, as on the morning of summer storms the sun bursts through the heavy clouds;—and they could not do the forbidden deeds. The tomes of learning and philosophy, so called, which pertain to discursive, speculative opinions of mankind about the details of the hereafter, would not be trodden under foot by him; but he would walk around them until he could meet, and solicit the grasp of the hand of the brother alone capable of helping him, because the saluted friend put as good fruit in the bottom of the basket as was displayed in the upper rows. And is such a man to lose his place in the kingdom, because when wearied with over-work he was irritable and petulant? Those who participate in rearing such barriers, who make such tests with accompanying, congenial excuses, who devise theologies that would prevent the heavenly ingress of such a man as we have contemplated to-night, may be accepted as worthy to form theories for the groove-educated and unthinking masses; but they could not be made of any use in a pin-factory.

O! I have seen a life that shall be restored at the resurrection morn! For truth and Christian confidence were his. Take out, if you will, of the common heritage of this people, his long, brilliant record in the intellectual tournaments at the Berkshire bar: but, O, father! for the constant mirror of thy stainless honor, and the inspiration of thy righteous, undaunted will: that at the great day of gathering, and in the Beautiful City, we may all be there!

My friends: we have only taken a glimpse at this character. And has any word been spoken not borne out, as was indicated, by the attending, upspringing testimony of the listeners who knew the

man? If these Points of Personal record, which at first seemed to be something considerable and egotistic, diminish continually before your reviving memories—if these hints, fortunately, refresh and connect your personal recollections—then there is the license and warrant to inquire: What was the life-work of the citizen who planned these foundations?

It is difficult to arrive at, or even approach a full estimate of the accomplished mission of such a laborer. If the stranger concedes the truth of the sketch that has been made with faltering hand, he must behold from the mere naming of the attributes, a neighbor and servant in this community, whose influence for good could not have been other than intense and powerful. Forty-five years' devotion to his profession in Great-Barrington! Let those whose memories go back one-third of that period of time, and from that measurement up to its full compass, recall and reflect upon that panorama of the past. Take out of the unrolled canvas the form and figure of that man. From public convocations, from the demonstrated wisdom of public counsels, from the decision of public issues, take out what you know belonged to his presence and his efforts, and then seek to realize the loss that has been sustained according to your remembrance. If you lay hold of the wires attached to an active galvanic battery, you will feel the shock despite any former disbelief in its electric force; if you come within the pulse-circle of a community whose life is largely affected by a single earnest purpose, you will have to confess the source that imparts the most strength to the throbbings.

But it may be that so near the power and so familiar with its contributions, you do not comprehend its magnitude, its vehemence and accomplishment. So useful, so necessary, it is difficult to accept the fact of his death. Perhaps it is a little matter that first breaks in upon you the true conception of the vacancy. It may be a suit at law,—very likely: it may be a town meeting. It may be interested regret: something you yourself wanted done, of that description which you were wont to lay before him for performance.

It may be, for any one of you, that there is something taking place, or about to take place, advertised, in which you would naturally place him as the prominent actor. He is gone! In some such way, the departure of a great man is first truly recognized in the minds of friends and acquaintances who are not of the family household. There is not the affliction that kinship begets; but the impression made in the brain and heart by the action of the man, in the many days that are passed, leaves a seal that is not sensibly effaced, until the blow of some exigency startles one with the sense of actual and irretrievable bereavement. But from the moment there is an awakened realization of the loss, the knowledge of the greatness of the void will grow until the reckoning and the eulogy are complete :—each friend and neighbor for himself. And the estimate will not then be obscured or belittled by the fact that the person mourned did not attain—because he did not seek—political prominence or notoriety.

You cannot compute the life-work by statistics. If you should figure up every act in every Court and every manuscript in every suit, and boast of a given, specific number of cases, and in a large proportion of which there were forensic triumphs, you would feel conscious, after all, of a barren calendar. Such tables would give but a skeleton sketch of the professional labor of the lawyer. An entire, distinct and graphic report of a single important trial in which he fought and won, were worth more as a type-history than the mere diary of his practice—though that would recite enormous annals of industry. And yet it may be stated, properly enough, that the record shows that Increase Sumner performed a greater amount of office labor than any other brother advocate in the same County, during his term of years.

We are proud in being able to point to tributes which his conscientious and scrupulous professional brethren have paid to his public character and conduct. Coming from the leading men of the Berkshire bar, and endorsed by the entire profession in the County, they engrave an eulogy of the highest standard, and give

a biographical epitome which will never be challenged. A similar complimentary sketch coming from other circles of the profession, in other States of the Republic, might be received with suspicion, and by a stranger would at best be regarded with indifference. But the saying and the seal of the Berkshire bar, in acknowledgment of the genius and leadership in Increase Sumner, is a genuine proclamation of excellence.

I would only desire in this connection to introduce the testimony volunteered by a former student in the office of our father—now one of the most distinguished judges, on the Pacific coast. I refer to Judge A. C. Niles, of Nevada City, California. Under date of the 23d of last February, he wrote: "Your father did me great service in judiciously directing my legal studies in the right path. He did me a favor once which was in a special sense personal; but I do not owe him as much for that as for the privilege of studying with one of those men who make our profession honorable. I looked upon your father then, as I do now, as my ideal of a lawyer—I mean a lawyer in the highest sense of that much abused word."

Blessed with a hearty, robust physical constitution—the joint result of inheritance and healthful exercise in his youth—he could answer a share of application which would have broken the majority of men at half his professional years. He pursued his labors during his half century with almost unimpaired vigor. His chosen field was limited. Such a man does not occur many times in a full century; and in such narrow boundaries, few of his stamp and capabilities are confined. Not that the scope was too narrow for honorable endeavor; but, evidently, undoubtedly, it might have been broader, with corresponding gain. Loving the village where he wooed and won the mother of his children, bound to the place where his dear ones lay sleeping, he preserved, he maintained his good word and work here; combining the favor of all those around about who could employ him to vindicate their cause in the Courts of justice; reaping a generous prosperity from the toil; and then dedicating a portion of his well-earned, and frugally but not stintingly

saved revenues, to the construction of the edifice in which you are seated to-night.

His interest and influence in all public local affairs were declared and hearty. For years and years, when it was known that the positions were an extraordinary tax upon his time and energy, he served in places of trust and power, in behalf of his immediate neighbors. And whenever at home or abroad, in the County, or at the seat of power in the Commonwealth, special objects of desire were entertained on the part of our citizens, he was put forward to champion or solicit. Nor on such occasions were his efforts ever lacking or unsuccessful. And you remember what an earnest advocate he was of every proper local improvement; how zealous for the construction and maintenance of good roads, highways for the people between adjacent neighborhoods,—this anxiety and corresponding exertion being of very considerable value to the people before the days of the iron-horse. And for schools, and academies, and cemeteries, and agricultural societies, and fire companies, and town clocks, and every convenience and accessory and adornment of civilized community life, he was ready in suggestion, in counsel, and in ever generous pecuniary support.

His record in the Legislature and in the Constitutional Convention, and in the office of State Attorney, and lastly in the chair of the Judge, exhibited his fitness for promotion to the highest post of civil distinction,—to seats of honor to which he might undoubtedly have attained had he not, of his own choice, almost exclusively restricted his ambition within the bounds of his professional calling.

That there is a remarkable Providence exhibited in his final personal work, for the general good, there can be no question. With a reasonable prospect of ten or fifteen years more of life before he should be called to take his place in the silent chamber, towards which we are all hastening, he rose from his bed one December morning, in 1870, and suddenly exclaimed: "Oh, why am I stricken with such cold and pain!" He staggered back to that couch from which he was never more to move without the aid of friendly

hands, and on which he was soon to breathe his last. He hoped and expected to have himself stood here to-night and given personal welcome, in the edifice begun in an old but far from decrepid age, with the plan of a memento for his favorite child. Yet the work was so far advanced that he had no solicitude about its completion. "It is all arranged: it is to be a memorial hall; it is to be called the Julia Sumner Hall." It would in any event have been a memorial for himself; but now it is to be so regarded in a singularly solemn manner. The appropriateness, the catholicity of the plan is worthy of your attention and recollection. Not a chapel with its restrictions for service, not a costly window of stained glass in the walls of the handsome church, but a Free Hall for the people, situated in the most eligible block in the town: commodious, well-lighted, well-ventilated, in every respect thoroughly adapted for all the purposes which its secular, liberty-cheering name suggests,—A Public Hall. And it is to be called by her name: "Julia Sumner."

Was she worthy of this honor? Was it the foolish fondness of the father, whose pride and partiality in her were not, and ought not to have been shared outside of the family, that is signified in the christening of this public chamber? Who was Julia Sumner? Are you called upon, simply out of respect to the memory of the builder, to name this place as he told his oldest son he desired it should be baptized! Or, are we to follow the only will of the deceased father in this respect with indifference, because there is nothing, in or out of the commonly accepted proprieties which should make us attach a larger importance to it! It becomes a question. For we all know and say that in every cemetery there are shafts of marble and granite, that have cost more money than those who slumber beneath them ever gave either in charity or risked in enterprise, or could be represented as worthy of from any moral advantage to the world. Then, who was Julia Sumner? Of course, many persons who knew the father well did not know the child. And a very brief reference to her biography will be permit-

ted, as due to the occasion, and valuable in the private record that is to be published.

Julia Elizabeth Sumner, the sixth child of Increase and Pluma A. Sumner, was born on the 20th of October, 1839. She had no sister companions, and her own mother died in the year 1847. Her ample educational facilities were improved with a zeal that elicited the cordial approbation of teachers, and school-girls whom she aided; the testimonials from the latter to her family being among the singular and most affecting portions of the record volunteered on her behalf after she had fallen asleep.

But it was not her scholarship that attracted the larger attention for her, or distinguished her with any great degree of prominence above her youthful associates and friends. She was the full heir to the intellectual vigor of the father, with all the queenly grace and bewitching loquacity of the mother. I am aware that the listener who had no acquaintance to which I make reference in this description, will smile at this apparent fulsomeness of eulogy; but I know I speak to those and to many who could add stronger paragraphs than I shall dare to pronounce, in honest recognition of the accomplishments, and merits, and fascinations of this daughter, and then express regret at the insufficiency of their tribute to the memory of Julia Sumner. It was the fact that her's were the glorious gifts of genius, which in woman defy analysis in their finest touches; charming where she would, and dismissing unpleasant subjects and persons with a royal notice,—in the last decided to the verge of severity, yet after all leaving the impression of a gentle good-night.

Commencing towards the end of her seminary days to taste the pleasure of the higher magazine literature, she rapidly became enamored with the productions of the best writers our country has produced; and her original criticisms upon the latest review, article or poem by one of the standards, was well worth the trouble and labor of a regular weekly correspondence. And this from a a girl who had not yet reached the twentieth year of her age.

But she never appreciated herself, nor, with a few exceptions, was she in any sense widely appreciated, as a person of remarkable mental powers and womanly blandishments, until there was what may be termed an accidental discovery. For some literary purpose, in addition to those immediately involved, in 1860 a dramatic entertainment was projected and rehearsed in this village: Bulwer's popular play of the Lady of Lyons being the selected piece, and Julia Sumner being cast in the part of the haughty Pauline. The scope which the character affords for the exhibition of dramatic faculties, is familiar to the majority of those present; and the fact that Julia displayed on the occasion referred to, powers of pathos and general emotional declamation, worthy of the best actresses upon the Metropolitan boards, is well attested by scores of thoroughly qualified judges. However our thoughts may run on the general propriety and character of the theatrical profession, it is a prerogative to say that there was then manifested an ability to take a front rank in a calling which demands the very highest class of talent, in order to obtain any respectable measure of success. Although this was the first and last indication and demonstration of the kind, it was ample for the establishment of a new reputation for our sister; one which made her sought after by many who had been slight acquaintances, who subsequently learned to love her for a thousand personal attractions of manner and of speech. The element of confidence in herself was roused to new and more appropriate activity, by this success on the little local stage; and her development in mind was very rapid from that hour.

Her accomplishments, her conversational grace and her literary productions had perhaps nothing of a characteristic precocity about them; but they were extraordinary as the performance of such maturity as her years fairly indicated. There were a strength and depth of mind which imposed respect, rather than dazzled the stranger or the friend. There was evidence of a thorough and large growth: and promise of glorious things for the future. Had Julia Sumner lived for a score of years beyond her allotted time, she would have

made a name that would have been cherished, not only by her imme diate friends, but would have been inscribed in the national literary biographical annals, and the catalogue of those eminent in works of benevolence and charity. We were just beginning to understand what a genius was unfolding in Julia, and to plan for her the widest opportunities, when the force of a long smothered malady focalized, and brought her to the tomb. She herself had her "Mission" selected, and for it she was willing and determined to make full preparation before she attempted any services in her chosen field. Meanwhile the principles, the underlying maxim and rules of the medical profession and the school she proposed to enter, were heartily accepted and endorsed by her, and she was ready and zealous with her reasons for the faith that was in her. Her nature it was to pour all her thoughts and energies where her faith directed. She burned to be about her special business, in the "Mission," which she believed had been appointed for her by the Master. Her earnestness knew none of the chilling limitations which cramp the half-hearted, though it may be, excellent people who are less acutely organized. If not everything in her work, then nothing. And you take such a nature, with its massive brain, with that clear, all-comprehending vision, that most expressive face, that pauseless womanly anxiety for amiable discussion, and devotion unwearied in the cause she espoused, and set it in any community, and it must swing out its influence to the world, and bring to bear a power whose results time could not efface.

Companion girls, now in matronly life; some of you know what magnetism and what strength there were in Julia Sumner. In any civilized and refined circle, it were better to have her for a friend than an army with banners. I do not fear a failure in the appeal to personal recollection on her behalf, and in more than justification of this christening ceremonial. There is not a lady here, who has frequently come within the radius of Julia's intimacy, I repeat, who could not furnish tokens of a time when she intuitively reached and revealed their opinions and ideas, and lent some aid and solution to

difficulties which were admitted; sometimes lighting up the whole horizon with the word of explanation or advice. She was ever ready to give out of her store of information and vigorous sympathy. There was not enough selfishness in her nature for use in the domain of physical self-protection. She may be said to have loved to learn of individual trials that were within her scope of relief. Since suffering with offences must come, it was a real pleasure to her to act the physician: witnessing the pain or perplexity with the average of experienced sorrow, but beholding the recovery or the recoloring, or the illuminating, with rapturous emotions and congratulations of joy. Thus did she show in advance, rather in a spiritual way, that she was eminently fitted for the "Mission" she had vowed to undertake.

Her's should be described rather as a generous than as a merely affectionate nature. Her esteem was fixed upon the abstract and impressional things of life and literature; her love and anxiety were concerning those matters with which she could so relate herself that she might go about doing good. And there was nothing mawkish in her temperament. And this was because of her inborn passion and delight to renew, reinstate, promote, perfect that which was lacking. She exhibited this in her modes and manner of instruction—engaged as she was in the work of teaching for many years. And the marked success of her labor as an instructress, was undoubtedly due in great part to these natural qualifications. So it was in her own self-examination and self-training work; so obviously to all in her outward service.

You put that which we term masculine acuteness into the mental and moral organization of some women, and because of the narowness of their heads, you have to take out some of the essential womanly. And then you have a crank, smart woman; and in order that there may be daily supplication for deliverance from such, let the litany be amended. Ah, but when there is great breadth of crown, and the shrewdness is superadded to the gentleness: blessed are they who live in the society or dwell in the sunshine of such.

The *smart* girl of the period! She will astound; bewitch; tantalize! She may do you some good, young man, perhaps, by rejecting finally the homage you pay in an instant of foolish admiration. She will sing to you that she may sting you with a barbed retort, that comes in answer to the very suggestion that she herself drew from your lips. The smart girl of the period! I have seen her. I will tell you what she is like. She is like one of those Medusas, commonly called by the sailors, "Portuguese Man-of-War;" of which you may have read a description, and specimens of which you may perhaps have seen. They are found plentifully off the south-western coast of South America, and one species abounds on the coast of Florida. Often have I watched them: riding so gracefully upon the waves. There they float upon the ocean billows,—dancing over the surface, as the smart girl of the period sweeps along on the waves of society. And the unsophisticated young man involuntarily brushes back his hair and adjusts his eye-glasses, and looks again, as the phenomenon glides by. O, how charming! How jauntily the fascinating creature rides on the yeasty wave. There she is, with a gauze-flounce covered crinoline, all blown out around her: so beautiful! And there is her fragile, fairy-like body, dressed in a vari-colored waistcoat; her pretty little head and face, with a delicate saucer bonnet on the top of the head; a great chignon protruding behind; over the temples dripping the golden or auburn ringlets; with a score of long ribbons fastened around the neck and streaming in the wind;—these giving no hint of the fang at the end of each one of them, and the force of a dozen Leyden jars of electricity, communicable at any point! O, how charming! And the young man puts his hands slowly down upon the creature. "Ah!" "ah!"—"It will not occur again!" he protests, as maddened with the agony he snaps his crippled fingers. But he will come again. He will renew and cultivate the acquaintance,—judiciously. He will come again, to gratify himself by witnessing a repetition of the little tragedy,—seeing her attract, and charm, and then lance—somebody else!

Such a girl was not Julia Sumner. She was too sensible, too dignified, too highly embued with a sense of the moral power and prerogative of woman. She could not be cruel either to women, men or animals. Some might have deemed her cold; but she always had the true honor of womanhood in her social relations. Her reprimand was candor; her more frequent approbation and cheer were stimulating for all good. And now, my friends, you are counting yourselves fortunate as you remember more and more what she said and did for you and your's; and you are more and more satisfied that her aim and object in life were replete with instructions of truth and mercy. So she was not a smart girl of the period.

Her religious experience was a matter of normal growth; deep and strong. It became more and more independent. And she was indeed precocious in the ascertaining that the place to find a satisfying portion is in the Book itself; leaving the notes of the learned commentator where for the longer interval they belong—on the shelves,—useful only for occasional and very brief reference. And this is not to disparage the work of criticism, but to discourage by the example, the habit of absolute reliance upon the searching and suggestions of others. She built right up from the New Testament, and the Songs and Proverbs and Prophecies: resting on that concentrating and condensing word,—"Thou shalt love the Lord thy God with all thy heart, and thy neighbor as thyself."

Morning and night Julia Sumner could have been found with the New Testament in her hand and an abridged Concordance; directing to the given subject in an argumentative way. And every day she brought out from the store-house things new and old.

She could tell you that which you had supposed you had learned and understood years before. And yet it would be a fresh communication, and given with such peculiar vivacity, in that bright, quick, sparkling emphasis, that your former recollections were supplanted forever by the new recital. She always described from a tangent: comparison; contrast; similitude; improvements. So in

ordinary things. The person just passed resembled a friend in this, and would have been very like another if such a change had been made in her face. The landscape before us will suggest to her the view we had from June Mountain, during the month previous; this flowing stream needs but a slightly deeper hue to be the twin of our own Green River. And it was always so, and always accurate. With many, the reverting thought is now and then indulged or cultivated. With her, always. She was forever setting up her present and comparing it with the past, and suggesting differences: a vision,—a book,—an audience. Instantly would she institute parallels that seemed more and more perfect, the longer they were held in the testing mind to which they were submitted. Beyond these she made her original combinations in connection with the objects examined; often from the hint of a face or part of a landscape, she would commence and outline a picture that would appear clear to the listener as the literal sight. So from the apparently trifling or incidental passage of the chosen author, she would construct an argument that would lead to an entirely different if not opposite logical conclusion.

But to know with confidence how those verses of the Bible, that were commonly acknowledged to have a contrary meaning on their surface, could be reconciled, harmonized, or balanced,—this was her great inquiry. And if you could help her in this, or if she could enlighten you in turn, happy was she for the day; nor would she let you go from such a conference until she had expressly said that she was pleased with the interview, and anxious for a renewed or similar investigation. Like her father,—whom we have heard repeat a thousand times Walter Scott's death-bed saying, "There is no book like the Bible,"—she regarded the Bible as a revelation to be directly, diligently searched; each one for himself or herself. Hers was not a morbid desire to re-examine many times some obscure line or immaterial passage, on which there were abundant opinions; not to scrutinize such passages over and over again until they were ground into tasteless pulp; but a new section for a

new day, and the life from the texts as they were shown in their true juxtaposition, to point a moral and support a hope. So the whole book was to be seen as the whole Heavens: enlarging the mind with holy thoughts, and overflowing the heart with emotions of repentance, reverence and love. O! that she could have lived to have preached both orally and by her publications! Alas! that it was not so to be!

On the ninth of October, 1864, she died.

It will be ten years, on the 17th of next month, since I parted with Julia. We were standing on the platform in front of the building that then occupied the ground over which we are now assembled. I am now directly above the spot where we clasped hands for the last time, and where I uttered the last "Good-by." Ten years have rolled away, and the brothers are here once more: all together again in our native valley.

"I hear the blackbird in the corn,
The locust in the haying,
And like the fabled hunter's horn,
Old tunes my heart is playing."

"Good-by, Julia!" But she did not answer, "Good-by." We unclasped our hands, and she walked a few yards away. And then she half turned round and looked at me,—a farewell look: despondently sad, as though it bore the burden of a premonition. Our eyes met for the moment, during which we both remembered, as persons in some great peril, and travelled the scroll up to days of early childhood. Then she slowly turned her head away and passed with tarrying steps towards home.

Good people: for six years I have tried to realize that your cherished friend and my sister is dead. I have even coldly thought that I ought to feel a more terrible woe in my heart, as a right fraternal tribute for her loss, and that because I did not constantly suffer that experience, there must be some mistake in the message I had received. I believe some of you could corroborate this, with something from your own experience. When I would

nearly approach a complete realizing belief in the letters that told of her sickness and dying and burial, I saw those eyes turn upon me as she stood in the middle of the sidewalk beneath us. A frivolous character, a spiritually uninspired woman could not leave that lasting signet of love with any one. I know I shall see her standing there when I go down those steps to-night: and I shall murmur, "Good-by;" and she will slowly walk away.

You remember how she looked in her life-time, at the instant when she last spoke to you; for some have written and more have told us that such was the fact. And I note this here, not needed to make an exhibition of feeling, but to properly magnify the appreciation of her gifts. She was indeed of that countenance which "speaks volumes," and seals the thoughts of the mind in the hearts of all acquaintances. Styles and tones of speech can be copied by the trained imitator; but vain is the art that attempts to transmit a full sentence of joy or sorrow, with an abiding force, by the poetry of the features. There is no possible, successful mimicry in this. And absolutely untrammelled by superstition, knowing now as definitely as I realize my own existence, that she has returned to dust, and her breath to the God that gave it, I dare to intrude this testimony, at this day, to the wonderful mesmeric will thrown into the face of her whose shadow looks down upon us from these walls to night,—exhibited and planted when there was no terror, and when on my part there was no dread lest we should never meet on this unrenewed earth again.

"Our young and gentle friend, whose smile
  Made brighter summer hours,
Amid the frosts of Autumn time,
  Has left us with the flowers.

The light of her young life went down,
  As sinks behind the hill,
The glory of the setting star:
  Clear, suddenly and still.

As pure and sweet, her fair brow seemed
  Eternal as the sky;

And like the brook's low song her voice,—
A sound which could not die.

The blessing of her quiet life
Fell on us like the dew,
And good thoughts, where her footsteps pressed,
Like fairy blossoms grew.

Sweet promptings unto kindest deeds
Were in her very look;
We read her face as one who reads
A true and holy book,—

The measure of a blessed hymn,
To which our hearts could move,
The breathing of an inward psalm—
A canticle of love.

There seems a shadow on the day
Her smile no longer cheers;
A dimness on the stars of night,
Like eyes that look through tears.

Alone unto our Father's will
One thought has reconciled:
That He whose love exceedeth ours,
Will yet take home his child.

Still let her mild rebuking stand
Between us and the wrong,
And her dear memory serve to make
Our faith in goodness strong.

And grant that she who trembling here,
Distrusted all her powers,
May welcome in that holier home,
The well-belov'd of ours."

If Julia Sumner could have been called upon to name the memorial which an affectionate father should determine to construct, we may readily believe she would immediately, and without suggesting aid, have planned a public hall like the one in which we are now gathered. I do not know, but I presume its fitness as an undoubted response to what she would have named, was prominently in the mind of the builder from the first moment of its conception. Certainly nothing could be more in consonance with her general sentiment; more agreeable to her taste, sympathy and ambition.

But there was a special hour of Dedication. When reared and roofed, and altogether finished in its outlines, the old man,—almost seventy years of age—was stricken down on his death-bed. And in the short interval of fully reviving powers of thought and speech, to his only attending and elder son he formally disclosed his purpose, and solemnly pronounced the dedicatorial words already quoted: "It is fixed; it is to be a Memorial Hall; it is to be called the Julia Sumner Hall." And with respect to the building, no other direction was given than that which is contained in these three short sentences of baptism. It was enough.

And now, my friends, I ask your indulgence for a few moments more, while I briefly submit some thoughts touching that which I conceive to be the quality and characteristic of both these persons, who are commemorated in this central edifice, which should be held prominently up for approval and example. Our recollections will be distinct and various, as were our relations to the deceased; and we will yield a certain prominence to the mementoes of thought or deed, which are with us personal,—the keepsakes which one valuable life always bequeaths to surviving companions. But for ourselves, and for such as may hereafter become interested in these lives, we plead the special object for contemplation and study and pattern. What was this quality or characteristic? It was *an honest self-assertion*. In my mind this is the grand theme which is exemplified—so to speak—and commended with great emphasis in the biography of this father and child. This was the energizing quality, held in conjunction with the strong mental and moral faculties which we have imperfectly indicated. You will not misapprehend. There is an overabundance of brazen-faced impudence in this sin-cursed nation, for which, and in the midst of which, and by its very strength, its possessors foolishly bid decent people to do obeisance to their brawling bravery; neither good sense nor courage being educated portions of the nature of such "champions." Honest self-assertion, guarded by the sound judgment that almost invariably attends remarkable mental and emotional faculties: of

this I speak. You may call it the courage of conscience; we want to get at the element.

Right principles, progressive ideas, without might and disposition to proclaim and to insist, and to rebut opposing doctrines, and without a frankly admitted enjoyment of the recompense of reward in a victory—this latter being a mighty stimulant—are of but little use. A man of intellectual ability and pecuniary wealth, who listens to and accepts the advice of the wise ones with whom Satan beleaguers every community, and keep quiet, here and there, as to the truth or the justice which he knows and feels, when justice should be vindicated and truth spoken, will very likely become immensely popular; he will be pointed out as the example for the young; and by his wicked inaction and silence he will do yeoman service for the master of evil. There will always be policy comrades raised up to tell such a man when it is "safe" to speak out and make a loud voice with timbrel and shawm. O! when there are so many to cry "Amen," and "Amen," and "Amen," refreshing it is to meet with those who will stand up in the midst of the babbling chorus and object, and deny, and refute, and reverse. And it matters not whether this quality of honest self-assertion be displayed in a larger or smaller circle of humanity: the satisfaction of every person capable of appreciating the Right is equally intense, when the demonstration breaks up cliques and overthrows rings, and works out the simple proprieties. It is not discontent; it is not a litigous disposition; it is not cold calculation: it is study to ascertain that which is most fit, and then ever-present will to announce the conclusion and urge it forward for consideration.

Is it to be supposed that these persons did not understand that their comfort would be promoted by silence and acquiescence?

In neighborly intercourse I will bring you facts composing an entire narrative in which I am deeply interested. I state them with care, and from the manuscript or memory that my labor has made absolutely correct. "What do you think about them?" If I get your opinion I am repaid for my toil. I am, in fact, your debtor.

And you in return will, by and by, come to me with such a matter of history or personal inquiry, having a like purpose. If there are no opinions to be given until a Round-robbin has been subscribed by all the villagers, then you and I want to leave the village. Not a boisterous, but a bold, candid opinion is required.

It is to be observed with respect to those who are frank and full in the utterance of their own well-considered opinions, that they are the most catholic and charitable. This is presumed and inevitable, when we say that their opinions are the result of judicious deliberation. And it seems to follow naturally from this, that persons of the character described give the best exhibitions of friendship; are the most helpful to the young and the comparatively feeble and inexperienced, and are utterly devoid of all that species of morbid introspection which vitiates a vast amount of otherwise valuable energy in the world of mankind.

In localities where there are no citizens of strongly marked individuality, there is a breeding in and in of ideas, productive of mental imbecility and moral stagnation. And if there be faults inevitably connected with such characters, then it may be said that it is for the physical and mental healthfulness of the world that these infirmities be kindly recognized and everywhere exercised.

A multitude of thoughts, in argument and illustration crowd upon the mind in dwelling upon such a theme. But I admonish myself of the unusual amount of time in which I have kept your gracious and perfect attention.

Let us trust that this structure will long continue to ornament the village and accommodate the general public, and promote the common welfare.

My friends: I know it is your desire to enter as heartily into the sentiment of this dedication, as do we who sit and stand upon this platform to-night. Twenty years ago our father delivered a lecture in this village, in which he expressed regret that there was not a suitable hall for public convocation in the village. How provi-

dentially has he filled his judgment, and built his monument, and named a memorial.

This audience chamber is your legacy; not ours alone. And you have come, I think, to join in these ceremonies with unqualified interest and approval. And you will come to-morrow, and to-morrow, and to-morrow, as the appointments here shall be pleasing to you; each time sanctifying the place with your renewed tribute of regard and regret. Not with funereal melancholy; not as to a compelled service of commemoration,—like the Chinese, gathering around their mausoleums, to mourn for their ancestors of centuries gone by. The rays of his genial temperament shall beam upon you as you ascend the entrance steps. And a glance at her fair face shall dispel every thought of gloom. If you knew her, it shall enhance your appetite for cheerful song and decent mirth a hundred-fold.

Come! Come ye who were here before our father took his place among the citizens of the village. Come ye who knew him in his youthful days; who remember when he was first introduced in the town, and plead his first cause in John Hopkins' Court. Come! Come Isaac Seeley, and John and Asa Russell, and Ralph Taylor, and E. P. Woodworth, and B. W. Patterson, and Harvey Holmes, and Gilbert Munson, and Gideon Whiting, and the scores of co-temporaries that remain. Come! O! you knew the man. Come! And it cannot be otherwise than that without detracting from the special gratification that may be set for the hour, you will be largely recruited by the accessories and associations of the place, peculiar to your memories alone.

And ye widowed matrons and honored spinsters, whose neighborly intimacy began with him and his household through the wife of his youth, and has continued through the loving and faithful counsellor and deeply bereaved companion of his later years: Come!

And come, honest yeoman, old client: whom I have seen so often in the office, unrolling an old-fashioned pocket book, and taking out the long bank bill, for which you obtained a dollar's worth of

legal lore: Come! You know you had a well-earned equivalent for your money; and the interest of your hard-earned fee is wrought into the texture of these walls, for your benefit and for the good of your children. Come!

Come ye lawyers: when on your occasional business trips through this section of the valley, there seems to be an invitation also in the entertainment that is here announced. Come! You who have so often heard him rapidly rehearse the facts of his case with most unerring accuracy; grouping them with unsurpassed skill in their most potential order; and then focalizing and driving them home with terrible strength of logic and of sentiment: Come! There is healthful professional tonic for you in the salubrious breezes that are wafted between these cornice windows. Come!

Ye who have heard him narrate the laughable facts, as only he could recite them: eliciting the ludicrous from the driest story; dissecting a hypocrite with pitiless surgery, and reconstructing him in the picture with his contradictions in new joints,—provoking by the operation a fever of merriment, that at times seemed almost insufferable: Come!

And ye that have seen him—perchance gone with him—as, one after another he followed his three little children, and then his wife, to yonder cemetery: Come! And come ye who have been with him beside the dying bed, or the grave of that daughter who had grown to womanhood, so lovely and so rich in promise,—"O, my only remaining daughter! my child! my child! O Julia, my child! would to God I could have died for thee!" Ye who have seen this strong man bowed down to earth by the afflictions with which the great enemy is still permitted to grievously wound the world of humanity, and know what tenderness there was in his nature: Come!

And every maiden who laid a flower on the old man's casket, and the unknown friend who secretly planted the green turf around his grave: Come!

All disagreements, all angerments—if a faint trace of any such abide—are to be dismissed to-night, and henceforth. Come! The

old man as he went fearlessly down into the grave, closed his work in behalf of us all. He repented him of his faults in dust and ashes—as all men of his stamp and moral triumphs do: knowing that there is an advocate with the Father, who is sufficient for that which is lacking. And he bequeathed this edifice as a consummation of liberality and good-will to you. And now let us rise and join in the formal and ample dedication of this chamber, even as he devised and decreed it should be.

May it be a radiating centre of civilization and refinement, so long as its walls shall stand. May peace, and joy, and gladness, have a home in this secular tabernacle, and may the blessings and benedictions that carry all those good and gentle influences which father and daughter desired and delighted to exert, rest upon every one who shall gather here for a season of instruction, recreation, or benevolent counsels. As the new people and the new generations of the village pass by its portals, may they often be given a recollection of the dead, who cannot but speak most impressively to ancient acquaintances and friends in this pleasant structure; all thankful that he found it in his heart to rear this building, ere his days were numbered; accepting and carrying out his dying baptismal directions concerning his own memorial work; thankful that these two lived to help and grace the virtuous society of the world; praising God for the dispensation that set this man and this daughter in this valley; repeating with emotions, it may be with tears, of love and pride, and emulating hope, the names of INCREASE and JULIA SUMNER.

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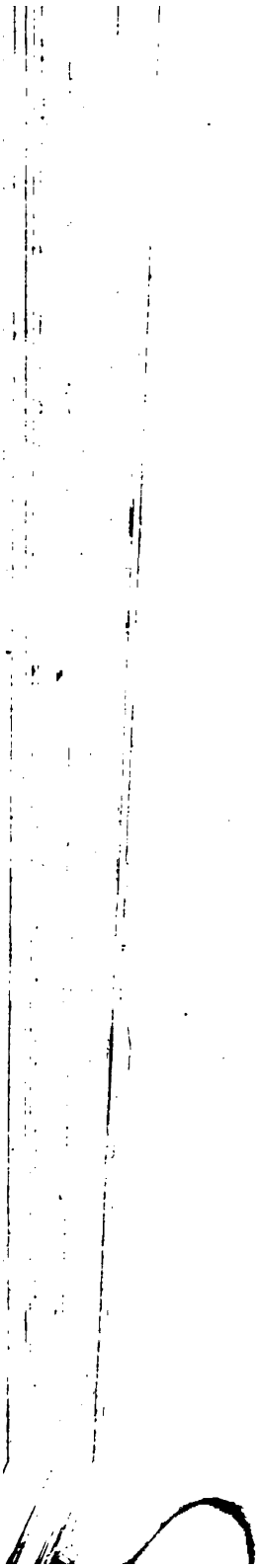

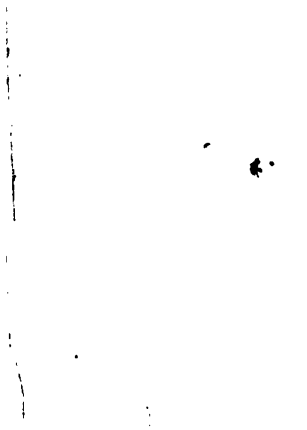

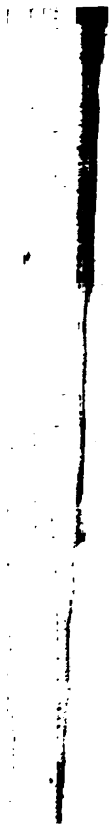

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